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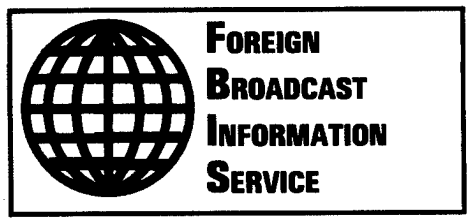

JPRS Report
Supplement

East Europe

CZECHOSLOVAKIA:
New 1990 Economic Laws

East Europe

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Czechoslovakia

New 1990 Economic Laws

JPRS-EER-90-123-S *29 August 1990*

CONTENTS

Introduction

To change its command economy to a market economy, Czechoslovakia has to completely restructure its legal system upon which the economy is based. The Czechoslovak parliament began enacting economic reform laws soon after the country's November 1990 revolution.

The first seven of these laws (or in one case a detailed explanation of the law) are contained in this volume. Published between February and June 1990, they were designed to put in effect the first basic, general legal modifications needed before more specific, drastic changes could be made.

Land Use Law Published

90CH0223D Bratislava ROLNICKE NOVINY (supplement) in Slovak 9 Jun 90 pp 1-4

[Instructions to the Land Use Law, dated 30 May 1990, compiled by Eng. Juraj Moravcik, deputy minister: "Instructions of the Ministry of Agriculture and Foodstuffs of the Slovak Republic," and the complete version of the Law compiled by MS and AS with commentary by PP and RT]

[Text]

INSTRUCTIONS

Instructions of the Ministry of Agriculture and Foodstuff of the Slovak Republic to ensure the uniform procedure in owner's claims in accordance with Law No. 114/1990 Zb. [Collection of CSSR Laws] and the Law on Agricultural Cooperatives.

The Federal Assembly passed Law No. 114/1990 Zb. which amends and completes Law No. 123/1975 Zb. on the use of land and other agricultural property to ensure production, and the Law on agricultural cooperatives. In contrast to the prior legal situation, both laws regulate the full utilization of privately owned lands, they deal with new objectives which could give rise to ambiguities due to the long-standing division between ownership rights and rights of use. However, great attention must be paid to the implementation of the above-mentioned laws.

Article I

EXECUTIVE AGENCIES (RESPONSIBILITIES)

1. The Okres National Committee, Department of PLVH:

a) is responsible for making decisions according to Law No. 123/1975 Zb. in the version of subsequent regulations (Section 5, para. 3, Section 12 a), paras. 1 and 2 of the Law);

b) in implementing the above-mentioned Law, it ensures that the regulations on the protection of agricultural land resources are complied with (Section 9 SNR [Slovak National Council] Law No. 78/1976 Zb.).

2. The courts rule on appeals to the decision of the ONV [Okres National Committee], which refused the owner's petition to annul the land use right (Section 12, para. 2 of Law No. 114/1990 Zb.).

3. The Okres department of the Ministry of Agriculture and Food of the Slovak Republic, as an independent office of the Central Agency for the Protection of Agricultural Resources, (Section 5, para. 1 a) of SNR Law No. 78/1976 Zb.) ensures that the regulations on the protection of agricultural land resources are complied with (Section 9 of SNR Law No. 78/1976 Zb.), and in so doing it cooperates with the ONV.

4. The Okres National Committee, Department PLVH [expansion not given], and the Okres department of the Ministry of Agriculture and Food of the Slovak Republic work closely with the geodesic and cartographic agencies, and if necessary also with the state forestry administration and, depending on circumstances, with other agencies or organization in fulfilling their tasks; they also furnish expert practical help to the users and owners of lands.

5. The tasks, rights, and obligations of the agricultural organizations that use the land are not affected by the authority of the above-named agencies in this matter.

Article II

DESIGNATION OF THE LEGAL ADMINISTRATION OF LANDS

In ruling on the claims of private owners and members of the national committee, the decisive factor is whether the right of use of the land is based on Law No. 123/1975 Zb., or on the Law on Agricultural Cooperatives. Therefore the ONV and the agricultural organization user must constantly update their information on submitted petitions (claims) and must notify the claimants on who is responsible for making the decision.

Article III

EXECUTION IN ACCORDANCE WITH LAW NO. 123/1975 ZB.

1. The execution of an owner's petition according to Section 12 a) of Law No. 123/1975 Zb., in the version of subsequent regulations, is implemented according to the legal code (Law No. 71/1967 Zb.), with the exception of appeals against the rejection of a petition.

2. Execution starts on submission of a petition. If several petitions are submitted against the same agricultural enterprise, or against a specific integrated part of its agricultural Obvod, the appropriate ONV will determine whether these claims should be combined due to the purpose, economy, and justification of settling the matter; at the same time the ONV , bearing in mind the extent and contents of the claim in accordance with the

Law on Agricultural Cooperatives, will determine whether there is any need to change the HTUP [Managerial and Technological Soil Improvements], or round off the property (Sections 26, 29, 30 of Ruling No. 27/1958 U.V. [Official Gazette]).

3. The ONV supervises the true state of affairs. To do this, it primarily:

—demands the cooperation of the owners and users of the land;

—if possible, it obtains the written documents necessary for the decision;

—generally it conducts local research (investigation), if several owners' petitions against the same user or a specific integrated part of its agricultural obvod have been submitted (it compiles a record on the research).

The ONV may set up a working commission to prepare the decision if the extent of the work or its complexity make this necessary.

Article IV

The ONV will ensure that the proper employees will be informed about these instructions as well as further aids for application of the above-named laws by the MPVz SR [Slovak Republic Ministry of Agriculture and Foodstuffs].

LAW ON THE USE OF LAND AND OTHER AGRICULTURAL PROPERTY TO ENSURE PRODUCTION (COMPLETE VERSION OF THE LAW WITH COMMENTARY)

The amendment of Law No. 123/1975 Zb. adopted under No. 114/1990 Zb., is the main change in the former concept of the establishment, annulment, and content of the right of use to ensure production. Above all, in the future it will not be possible to establish the right of use through the unilateral decision of a legal agency (deletion of Sections 6 and 7):

—legal prerequisites have been created so that the existing right of use can be completely annulled on the request of the owner (Section 12a, para. 1, para. 2, second sentence) or can be contractually changed to a different right (Section 12a, para. 2, fourth sentence);

—the right of use is restricted in comparison to what it was.

Unless the right of use is annulled through a law in the prescribed manner, it remains valid.

Complete Version of Law No. 123/1975 Zb.

Law on the use of land and other agricultural property to ensure production as is stipulated by the changes and amendments in Law No. 95/1988 Zb. and Law No. 114/1990 Zb.

Placing all forms of ownership on an equal footing requires that the owners be able to fully utilize their agricultural land and agricultural property and that all obstacles preventing the assertion of this right be removed. To achieve this, and strengthen the relations of owners to their land, as well as protect their ownership, the Federal Assembly has approved the following law:

The new preamble to the Law ends the prevalence of utilization relations over ownership rights, and makes utilization relations independent of ownership rights. Its relevance spreads beyond the lands to which this Law applies.

The Right of Use to Land and Other Agricultural Property To Ensure Production

Section 1

Agricultural organizations, as well as state organizations, which conduct scientific research and provide education for branches of agriculture (hereinafter "Agricultural Organizations"), use land which is not included in cooperative[1] or substitute[2] use, as well as other agricultural property that is not owned by the state, cooperatives, or social organizations, on the basis of the right of use to ensure production (hereinafter "Right of Use"), unless this right is revoked (Section 12, and Section 12a).

The last part of the amendment in Section 1 (unless this . . .) expresses the legality of the former Right of Use by agricultural organizations, and simultaneously its temporary quality in the present understanding as well as the gradual change in its content and, lastly, the priority of land ownership over its use. There are terminological reasons for the rewording on the subject of ownership.

Section 2

1. The Right of Use is absolute; it entitles the agricultural organization to make use both of the land and other agricultural property to the same extent as if it were the owner, and to use it in accordance with legal regulations to fulfill all tasks issuing from the objectives of its activities.

Para. 1 of Section 2 is a general rule for determining the Right of Use—to land and other agricultural property. The other paragraphs are, so to speak, ex specialis for individual types of used and unused property—plots of land (para. 2), the crops thereon (para. 3), and buildings (para. 4).

In para. 1 the lack of a time limit as the determining factor of the former Right of Use has been deleted. The stipulation that it is absolute is limited by the provisions in Section 12, para. 3.

2. If it is a matter of the use of plots of land, the agricultural organization may:

a) implement improvements necessary to ensure or increase agricultural productivity;

b) change their nature and use them to their best advantage;

c) construct buildings necessary for the activity of the agricultural organization.

3. Everything that grows on lands used by state agricultural organizations is the property of the state. Everything that grows on land used by agricultural cooperative organizations is their property.

4. If buildings are used, the agricultural organization may make improvements necessary for their profitable use only with the consent of the owner.

In para. 2 the amendment limits the Right of Use as follows:

—through a change in the sample calculation for estimates (deletion of the words "particularly" in the previous sentence);

—the omission of houses built within the framework of the housing exhibition "building rights" according to 2 c).

Para. 3 was not changed.

In para. 4:

a) the former provisions under b), according to which the user could apply to the building office for a demolition permit, have been deleted;

b) the condition of the owner's consent to the improvement of buildings by the user has been added.

Section 3

1. The agricultural organization is entitled and obligated to protect its Right of Use against any unjustified interference.

2. The agricultural organization is obligated to use best farming practices in utilizing land to which it has the Right of Use; it is obligated, in particular, to continuously improve the productivity of the agricultural land.

Para. 1 has not been changed. Even an owner's interference in the Right of Use can be considered to be unjustified. Depending on the nature of the matter, protection may be sought from the ONV or from the court.

Para. 2:

The special characteristics of agricultural land are the reason why the Right of Use should not only be the a sum of the rights, (Section 2), but also of the obligations of the user; however the amendment omits the priority of forms of mass production, which were set up without consideration of specific circumstances, from the text of the Law.

Section 4

Equally, the rights and obligations ensuing from the Right of Use according to this Law apply to agricultural organizations and the substitute lands which it is using.

This has remained unchanged. The right of substitute use is based on Government Statute No. 47/1955 Zb.

Section 5

1. The agricultural organization retains the Right of Use of property mentioned in Section 1, which it uses up to the date on which this Law comes into force.

2. The agricultural organization's Right of Use also applies to the living accommodations in the agricultural settlement and building sites on which they were erected, if it took possession before 1 April 1964 and is using them up to the date when this Law comes into force.

3. If there is any doubt whether an agricultural organization has the Right of Use in accordance with paras. 1 and 2, the Okres National Committee will make the final decision.

Section 5 has remained unchanged. Paras. 1 and 2 deal with the situation up to the date the Law went into effect in its original form, i.e., to 1 January 1976. It does not apply to lands (or other property) which the organization began to use without legal right after this date; the legality of the Right of Use that commenced in this way, however, remains intact.

The provisions in para. 3 can be used to resolve some controversial cases.

Sections 6-8 (deleted)

After deleting Section 8 (Law NO. 95/1988 Zb.) which regulated some problems of transferring JRD [United Agricultural Cooperatives] to state agricultural organization, Law No. 114/1990 Zb. was deleted, as were Sections 6 and 7, regulating the origin of the Right of Use through the decision of the ONV, or in some other manner mentioned above (this does not affect provisions in Section 12, para. 2—but that deals with a different kind of right).

Temporary Use

Section 9

1. The agricultural organization that has the Right of Use may, with the consent of the owner, transfer lands for temporary use:

a) to its members or employees for agricultural use;

b) to state or cooperative organizations for agricultural use, and in exceptional circumstances for nonagricultural use;

c) to a social organization for agricultural use;

d) to other citizens for agricultural use.

The amendment retains the practice of temporary use. In para. 1 it omits the criteria of lands which can be temporarily used (unsuitability for mass production) and the obligatory sequence of temporary users; the consent of the owner to temporary use has been added (similarly in para. 4).

Former paragraphs 2 and 8 have also been omitted; these prohibited the temporary use of streams and rivers, and ponds with fisheries, that is to say, they permitted the Okres National Committee to cancel temporary use if conditions were violated. Other section were renumbered.

2. The agricultural organization may also transfer buildings, to which it has the Right of Use, or parts of them or the land on which they were built, for temporary use.

Temporary use is interpreted more broadly than before: separate investigation of justification (de facto exceptions), and limitation to only a few entities have been eliminated.

3. A written contract is necessary for temporary use. The contract on transfer of land for temporary use may also include an agreed appropriate payment and the manner of distributing assets after termination of temporary use.

4. A user, to whom lands have been transferred for temporary use, may with the prior consent of the owner and agricultural organization make improvements and erect temporary buildings necessary for agricultural production. This also applies to buildings transferred by an agricultural organization for temporary use in connection with building improvements. The consent of the owner or agricultural organization is mandatory, and the building office cannot make a decision, grant a building permit, or post a notification that it does not oppose the building[3] without it.

Apart from the consent of the agricultural organization, the consent of the owner will continue to be necessary if a temporary user wishes to construct a temporary building or improve the land.

5. Everything that grew on the land during the period of temporary use is the property of the temporary user.

6. The right of temporary use is terminated as soon as the period stipulated in the agreement has elapsed. If no period was agreed on, it is terminated as soon as the objectives have or could have been attained.

7. On the date when use is terminated, the user is obligated to return the lands to their original state, unless the contract on temporary use of the lands or a subsequent contract state otherwise; however, care must be taken not to incur unnecessary agricultural losses.

Paras. 5, 6, and 7 have not been changed; obligations from contracts that were concluded earlier remain.

Transfer of the Right of Use

Section 10

1. An agricultural organization may transfer the Right of Use to another agricultural organization through a written agreement and with the consent of the owner.

The consent of the ONV for transferring the Right of Use to another agricultural organization has been omitted; on the other hand, the consent of the owner will be necessary for the contract to be valid in future: in this context it should be mentioned that the Right of Use, which originated on the basis of former transfers (e.g., "intersectoral transfers"), for organizations to which this right was contractually transferred, is a Right of Use according to this Law and therefore the latter organizations will be parties to rescinding this right (Section 12 a, para. 1) and not the organization which first had the right.

2. The Right of Use is always transferred free of charge. However, if an agricultural organization, to which the Right of Use was transferred, incurred expenses for investments in fixed assets from its own resources, it may demand compensation for these expenses from the agricultural organization to which the Right of Use has been transferred; the amount is determined according to the value of the investments on the date when the Right of Use is transferred.

Para. 2 has not been changed. The former Para. 3 has been deleted, and thus the authority of the ONV to rule on conflicts about compensation for expenses according to para. 2 has been revoked; and unless the Law provides express regulations, any conflicts of this kind will be resolved according to separate regulations, in arbitration, from the day the Law becomes valid.

Section 11-Section 11a (deleted)

By deleting Section 11, the possibility of transferring the Right of Use between organizations through a decision of the ONV has been excluded; the commentary to Section 10, para. 1 similarly applies to former transfers of this kind.

By deleting Section 11a, completed by Law No. 95/1988 Zb., the separate regulation of the right of utilization in order to construct small hydroelectric plants has been dropped, which also means it will continue to be impossible to transfer land for temporary use to citizens for this purpose (Section 9, para. 1, a and d—only for agricultural use).

Termination of the Right of Use

Section 12

1. The Right of Use is terminated through the transfer of the used property to the ownership of an agricultural cooperative or the state; any other change in ownership does not affect the Right of Use.

The concept of "socialist joint ownership" has been replaced by ownership by an agricultural cooperative or ownership by the state.

2. The Right of Use is terminated through its revocation (Section 12a, paras. 1 and 3).

3. The Right of Use is also terminated by concluding an agreement on the temporary use of the land by an agricultural organization (Section 12a, para. 2).

New ways of revoking the Right of Use have been introduced: through its termination by the ONV according to Section 12a, paras 1 and 3, or through a contract according to Section 12a, para. 2; at the same time, the former reason for termination of this right through transfer to the forest resources—to the state organization of forestry (former para. 2), and the necessity of the organization's consent to transfer ownership of the property, which the organization is using according to this Law (former para. 3) have been omitted.

Section 12a

1. The Okres National Committee will terminate the Right of Use on the petition of its owner. It is possible to return agricultural lands only for agricultural purposes; the termination date of the Right of Use of agricultural land is set after harvest, unless the owner and the agricultural organization agree otherwise. The total extent of the lands will be returned unless the owner and the agricultural organization agree otherwise.

Paras. 1 and 2 deal with totally new provisions, which should enable the full implementation of the citizens' right of ownership of agricultural land. Considering the fact that the termination of the right of cooperative use is based on similar principles (Section 50, para. 5 of Law No. 162/1990 Zb. on agricultural cooperatives), the decisive point in each individual case will be to determine which of the two rights of use are applicable. For instance, if owners entered a cooperative after 1 January 1976, the Right of Use to ensure production will not be terminated, i.e., these owners, according to the regulations on agricultural cooperatives (former as well as contemporary ones of the valid Law), did not place their lands in cooperative ownership (but this does not mean that such land cannot become the basis for the membership share of such a member of the cooperative). On the other hand, the right of cooperative use to lands, which the cooperative transferred to other agricultural organizations for their use, will not be terminated (Sections 38 and 39 of Law No. 122/1975 Zb., and Sections 61 and 62 of Law No. 90/1988 Zb.).

According to para. 1, the Okres National Committee will revoke the Right of Use on the petition of the owner in legal proceedings (Law No. 71/1967 Zb.); the organization which is using the lands must always be a party in the proceedings; as a part of the proceedings the ONV must investigate:

—documents proving the ownership of the lands in question (EN [not further expanded] property title deed, or an extract from the land register), which, apart from specifying the land, must also state its acreage; the owner must submit these documents with the petition;

—proof of Right of Use;

—if it is not a matter of lands where, according to the Law (Section 12a, para. 2), it is impossible to revoke the Right of Use, that is if, for whatever reason, no agreement or financial settlement exists between the owner and the using organization;

—if no agreement was made between the said parties on returning less acreage than the total acreage of the lands.

The basis for the ONV's decision will be the original legal decision, that is contract.

In land cultivation and other agricultural production, the appropriate regulations on protecting agricultural land resources, plant health, and veterinary matters, etc., apply to the owner. A business licence is not required for the cultivation of land.

2. Unless there is an agreement, the Okres National Committee will not revoke the Right of Use of land which has been built on, unless it involves a structure that is owned by a citizen, lands on which there are permanent growths, which matured within the duration of the Right of Use, or improvements made by the agricultural organization unless there is a financial settlement, or if the lands are inaccessible. In this case, on the request of the owner, the agricultural cooperative is obligated to exchange his lands for other suitable land[4] owned by the cooperative, and a state agricultural organization must exchange it for other suitable land[4] owned by the state. If the agricultural organization does not own such lands, it is obligated to transfer other suitable land[4] to the owner for temporary use free of charge; the land is transferred from 1 January of the current year on a request by the owner, which must be submitted at least six months earlier. If the agricultural organization cannot transfer suitable land for temporary use to the owner, or if the owner does not agree with the transfer of such land, the agricultural organization is obligated to conclude an agreement on the temporary use of his lands against payment; such an agreement may be cancelled unilaterally on 31 December of the current year with a five-year notice. Within 15 days of receiving a decision refusing his petition for revocation of the Right of Use of the land, the owner may appeal to the court against this decision. Similar provisions of the Code of Civil Procedures on court[5]investigation of decisions by other agencies apply to these proceedings.

The ONV will not revoke the Right of Use if the following are concerned:

—land that has been built on (apart from a structure owned by a citizen—the owner of the land);

—lands with permanent growths (orchards, gardens, vineyards, hop fields), which grew within the duration of the Right of Use;

—lands upgraded through improvements executed by the agricultural organization;

—inaccessible lands; accessible lands can be lands that can be cultivated independently, and accessing them does not obstruct or seriously impair the cultivation of neighboring lands, (for example, construction of an access path across the neighboring lands).

In all cases that eliminate the revocation of the Right of Use, it is possible to remove the legal obstruction through an agreement between the owner and the agricultural organization, which must include a financial settlement in cases that include improvements or growths.

Since all decisions on revoking the Right of Use of lands depend on the actual circumstances, the manner in which they are used, and the final results, and a refusal of the petition for revocation means interference in the way the land resources of the agricultural organization have been set up and influence its next stage in the relations toward the petitioner (e.g., the exchange of lands) as well as relations toward other land owners, close cooperation of the ONV will be necessary with every affected agricultural organization and with the owners, and within this framework it will only issue the appropriate decision after the total number of owners—petitioners for the return of lands—is known. But it will be necessary to keep to the deadlines for issuing a decision according to the Law.

If the ONV cannot revoke the Right of Use of lands for the reasons stipulated in the first sentence of para. 2, it will issue a decision to this effect, and the next stage must be executed between the organization and the owner.

Lands can be exchanged if it is possible to transfer lands owned by the cooperative or by the state to the owner, but the cooperative cannot use lands owned by the state for such an exchange. The provisions in Section 406 of the Civil Code apply to contracts concluded on the exchange of lands, and on the basis of them the ownership of exchanged lands will be transferred from the citizen to the cooperative, that is to say the state and vice versa. In this case, the Right of Use will be terminated according to Section 12, para. 1.

When lands are transferred for temporary use to the owner, the procedure is according to Section 9 of this Law and Section 49 of the Law on agricultural cooperatives, and in the case of state lands that are being used by cooperatives, the procedure is according to the Civil Code. An organization cannot transfer lands for temporary use, for example, if it does not have the consent of the other owner according to Section 9, para. 1 of this Law. The transfer of lands for temporary use of an owner does not terminate the Right of Use according to this Law.

If the organization cannot transfer suitable lands to the owner for temporary use, or if the owner does not agree with the transfer of such lands, it is obligated to conclude an agreement with him on the temporary use of his lands against payment. In matters that have not been regulated by this Law, the provisions in Sections 397 and 398 of the Civil Code apply in conjunction with its Section 494. An organization may come to an agreement on lease with the owner even prior to a ruling on the above-mentioned matters, however, the owner may not enforce such an agreement until he has exhausted all steps mentioned in the preceding sentences in para 2 and para. 1. In concluding such an agreement, the organization's Right of Use of the land will be revoked according to this Law (Section 12, para. 3).

The proceedings on revoking the Right of Use are executed according to the legal code, with the exception of the appeal proceedings, if an owner appeals a negative decision to the courts. The notification of the ONV's decision must state this explicitly. The KNV [Kraj National Committee] rules on appeals against decisions, in cases where the appeals were granted.

3. The Right of Use to an agricultural building or other structure (hereinafter "Agricultural Building") will be revoked by the national committee on the petition of the owner of the Agricultural Building. Through the decision on revoking the Right of Use of the Agricultural Building, the Right of Use of the building plot with yard, and/or adjoining garden must also be revoked.

4. Unless the owner of the Agricultural Building and the agricultural organization agree otherwise, the agricultural organization is obligated to return the Agricultural Building in a condition commensurate with normal wear and tear; if the Agricultural Building was upgraded at the expense of the agricultural organization, the owner is obligated to provide compensation commensurate with the purposeful and permanent upgrading of the Building at the time the Right of Use is terminated.

Compared to the former Section 12a, para. 2 and 3 (introduced by Law No. 95/1988 Zb.), there are the following differences in respect of terminating the Right of Use of agricultural buildings:

—the petition is submitted by the owner, not the user;

—the prerequisite, that the user no longer has any use for it, has been dropped;

—the size of the adjoining garden is not limited;

—revocation is obligatory (if a petition is submitted);

—more details have been added on settling expenses for upgrading a building.

The proceedings on revoking the Right of Use are executed according to the legal code, and agreement or possible conflicts according to para. 4 are civil law conflicts.

TEMPORARY AND FINAL PROVISIONS

Section 13

1. The Right of Use according to Section 5 will not commence if the agricultural organization uses the agricultural property on the basis of a contract according to the Civil Code No. 40/1964 Zb.; this is not valid in the case of agricultural lands.

2. Contractual obligations of agricultural organizations from the purchase of livestock and equipment according to Section 4 of Government Statute No. 50/1955 Zb. on some measures to ensure agricultural production, which arose before this Law came into force, will remain intact.

Section 14

The Right of Use of fixed assets must be entered into the documents on fixed assets according to the regulations on fixed assets.[6]

Section 15

Government Statute No. 50/1955 Zb. on some measures to ensure agricultural production has been revoked.

This deals with the original provisions of Law No. 123/1975 Zb.

Section 16

This Law came into force on 1 January 1976.

Law No. 95/1988 Zb., which amends and completes Law No. 123/1975 Zb. on the use of land and other agricultural property to ensure production, went into force on 1 July 1988. Law No. 114/1990 Zb., which amends and completes Law No. 123/1975 Zb. on the use of land and other agricultural property to ensure production, in the version of Law No. 95/1988 Zb., went into force on 1 May 1990.

Footnotes

1. Law No. 122/1975 Zb. on agricultural cooperatives.

2. Government Statute No. 47/1975 Zb. on measures in the sphere of agricultural land regulations.

3. Section 39, Section 57, para. 2, and Section 66 of Law No. 50/1976 on land-use planning and the building code (Building Law), according to which the lands were transferred for use. Use may be terminated with a six-month notification on 31 December of the current year, unless a universally binding regulation or an agreement by the parties stipulate otherwise.

4. When it transfers lands, the agricultural organization proceeds, inasfar as is appropriate, according to the principles established in Sections 17 and 18 of the Ruling of the Ministry of Agriculture and Forestry No. 27/1958 U. I. [Central Information] which publishes instructions on the execution of the governmental statute on measures in the sphere of agricultural and technological land improvements.

5. Law No. 99/1963 Zb. Code of Civil Procedures in the version of subsequent regulations (Sections 244 to 250).

6. Law No. 22/1964 Zb. on documentation of fixed assets, and the Ruling of the Central Geodetic and Cartographic Administration No. 23/1964 Zb. on documentation of fixed assets.

Law on Housing, Consumer, Production, Other Cooperatives

90CH0240A Prague HOSPODARSKE NOVINY (supplement) in Czech 8 Jun 90 pp 1-7

[Law No.176/1990 Sb. of the Collection [of Laws and Decrees] on Housing, Consumer, Production, and Other Cooperatives]

[Text] The Federal Assembly of the Czech and Slovak Federal Republic has adopted the following law:

PART ONE
GENERAL PROVISIONS

Section 1
Purpose of the Law

1. This law's purpose is to regulate the status, legal terms, and principles of the activity of housing, consumer, production and other cooperatives (hereinafter only "the Cooperative") and corollary cooperative organizations.

2. This law does not apply to agricultural cooperative organizations.

Section 2
The Cooperative

1. The Cooperative is a voluntary association of citizens (members) who have combined to carry out joint economic and other activities and to satisfy and uphold their interests.

2. The Cooperative is a legal entity; in legal relations it conducts itself under its name and bears responsibility ensuing from these relations. The Cooperative is not liable for obligations incurred by other legal entities.

3. The Cooperative's affairs are managed by members through the Membership Meeting and the Cooperative's elected management, in accordance with generally applicable legal statutes and the Cooperative's bylaws.

4. The Cooperative operates independently in its own account; it takes appropriate economic risks.

Section 3
Founding the Cooperative

1. Founding a cooperative requires:

a) the decision of a constituent meeting to found a cooperative, with at least five citizens voting to do so,

b) adoption of the Cooperative's bylaws,

c) election of the Cooperative's agencies.

2. The Cooperative may assume rights and obligations from the day of entry in the enterprise register.

3. Application for entry in the enterprise register is submitted by the Cooperative; it must be accompanied with the Cooperative's bylaws and the constituent meeting's decision to found it.

4. Activities requiring approval according to special regulations may be conducted by the Cooperative only with that approval.

Section 4
Cooperative Bylaws

1. Cooperative bylaws (hereinafter only bylaws) are the basic intracooperative statute. The bylaws must contain:

a) the Cooperative's name which must expressly designate it as a cooperative,

b) the seat of the Cooperative,

c) the object of the Cooperative's activity,

d) provisions regarding the inception and expiration of membership, the member's duties and obligations, as well as measures applicable to members who fail to meet their membership obligations,

e) regulations governing the amount or method of determining the amount of the member's share or of the initial member investment or other property share, the kinds and methods of establishing and utilizing these funds, their valuation and potential amortization, the methods by which they are recorded (deposited) and refunded in case of the expiration of membership or possibly other circumstances establishing a claim for settlement (for instance transfer of membership rights),

f) the determination and extent of a member's liability in case the Cooperative suffers a loss,

g) more detailed provisions regarding the Cooperative's management, their composition, duration of their terms of office, the method of electing them and provisions showing who organizes and directs the Cooperative's day-to-day operations (Section 15 item 5, Section 21) and who is in charge as the organization's leader according to the provisions of the labor law.

2. The bylaws must not be in conflict with this law and other generally applicable legal statutes.

3. The bylaws and their changes are entered in the enterprise register.

Section 5
Cooperative Property

1. Cooperative property is deemed to include effects to which the Cooperative has a property right, and furthermore property rights acquired by the Cooperative. Property can be seized from the Cooperative only in cases and under conditions stipulated by law.

2. The Cooperative's property is formed by assembling member contributions (enrollment fees, member shares, deposits, material contributions and other valuable intangible, tangible and financial inputs), and from the results of the Cooperative's operations, possibly also from other sources.

Section 6
Cooperative Operations

1. The Cooperative meets its needs and expenses from the revenues earned primarily in its economic activity, as also from other sources.

2. From its profits the Cooperative gives priority to payment of taxes and levies. The remaining profit is free for the Cooperative's independent use and cannot be taken away from it.

3. Capital fund writeoffs are left to the Cooperative in the full amount and may be used freely by the Cooperative.

4. To encourage members' interest in the operations and economic results the Cooperative may make use of their additional material participation (additional financial or other property inputs), to be recompensed by a profit share according to the bylaws (Section 4, item 1 e).

5. To finance its development the Cooperative may issue bonds; the method of issuing them, the way they are to be used, and their valuation are determined and announced by the Membership Meeting in accordance with generally applicable legal statutes.

6. The Cooperative may operate also with the property of other legal persons or individual citizens, on the basis of a contract concluded in accordance with generally applicable legal statutes.

Section 7
Protecting Environment, Nature, and Public Health

1. In its economic and social activities the Cooperative is obliged to assure the most effective protection of the human and natural environment against harmful effects which may result from its activities and take particular care to avoid harm to public health. It uses its own resources to finance and carry out measures designed to undo the damage caused by its activities, as well as measures to sustain and protect all environmental and natural elements threatened by its activities.

2. The Cooperative is obliged to set up facilities designed to protect environment and nature, to bring them to an operating state along with the requisite production or nonproduction equipment, and to ensure permanently their uninterrupted and efficient operation.

Section 8
Dissolving the Cooperative

1. The Membership Meeting may decide to dissolve the Cooperative with or without liquidation. The Cooperative ceases to exist on the day of its erasure from the enterprise register.

2. The Cooperative ceases to exist without liquidation by a merger, absorption, or division.

3. The Cooperative which assumes the properties and obligations of a dissolved cooperative is obliged to promptly inform other legal persons affected by the Cooperative's dissolution in the matter of the Cooperative's dissolution and transfer of its properties and obligations; in case of a liquidation this duty devolves on the liquidator.

4. A cooperative may also be dissolved by a court decision, if its activity or conduct seriously violates the obligations or conditions set forth in Sections 3 and 4 of this law.

5. The Cooperative ceases to exist if its membership falls below five citizens.

Section 9
Merger and Absorption

1. The property, obligations, and membership of an absorbed cooperative pass on to the receiving cooperative.

2. In a merger of cooperatives the property, obligations, and membership pass on to the newly formed cooperative on the day the newly formed cooperative is entered in the enterprise register.

Section 10
Division

1. The Membership Meeting of the dividing cooperative determines how the Cooperative shall be divided, how its property and obligations shall be divided and, considering the legitimate interests of individual members, it determines to which cooperative the individual members will transfer.

2. The Cooperative thus divided ceases to exist and its property and obligations pass on to the new cooperatives the day on which they are entered in the enterprise register, to the extent as determined by the Membership Meeting of the Cooperative undergoing division. On that day members of the divided cooperative become members of the new cooperatives.

COOPERATIVE LIQUIDATION

Section 11

1. If the Membership Meeting decides to dissolve the Cooperative with liquidation, it shall appoint a liquidator. If the Cooperative was dissolved (Section 8, item 5), the court appoints a liquidator.

2. Application for entry in the enterprise register showing that the Cooperative is entering into liquidation and who the liquidator is shall be filed by the Cooperative.

3. On the day entry was made in the enterprise register according to item 2 above, all bodies of the Cooperative cease to function except the Membership Meeting. In case of liquidating a cooperative dissolved by decision in accordance with Section 8, item 4, the function of the Membership Meeting also ceases.

Section 12

1. The liquidator is empowered to act in the Cooperative's name in matters connected with liquidation.

2. The liquidator shall convey without delay information on the Cooperative's entering the liquidation process to all organizations, agencies, and other persons who may be affected.

3. On the day liquidation begins the Cooperative shall prepare a closing account and account books and transmit them to the liquidator.

Section 13

1. Within one month of his appointment, the liquidator shall prepare an opening balance and present it to the Membership Meeting along with a liquidation plan, liquidation budget, and inventory record attesting to an extraordinary inventory-taking of economic assets carried out on the day liquidation began.

2. In the process of liquidation the liquidator shall take particular care of the following:

a) concentrate all financial assets in a single account at one financial institution,

b) conclude routine matters connected with the Cooperative's business,

c) sell the Cooperative's property at the most favorable price or dispose of it otherwise in accordance with the generally applicable legal statutes,

d) from the proceeds of liquidation satisfy consecutively state claims to levies, taxes and fees, subsequently claims of cooperative members and workers inclusive of settling member shares and other material contributions (members' participation), and return funds granted the Cooperative from state resources for investments within the

last five years prior to liquidation, return assets incorporated in the Cooperative's property from common cooperative funds, and ultimately settle other claims.

Section 14

1. As of the day the liquidation process is completed the liquidator shall prepare a closing account and present it to the Membership Meeting for approval, along with a final report on the liquidation proceedings and a proposal for distributing the liquidation surplus, if any.

2. The liquidation surplus shall be distributed consecutively so that each member will receive an amount up to the amount of his membership share and other material investment, and possibly another amount by which the member's liability exceeds his membership share.

3. Assets remaining after the settlement in accordance to item 2 shall be disbursed by the liquidator as follows:

a) in cooperatives newly formed after 1 July 1988, among members of the Cooperative, in accordance with the bylaws,

b) in other cooperatives, for the benefit of communities in which the Cooperative conducted its business.

4. The liquidator shall file an application for erasing the Cooperative from the enterprise register and ensure safekeeping of its documents and accounting records.

PART TWO
COOPERATIVE BODIES

Section 15

The bodies of the Cooperative are:

a) Membership Meeting or general assembly (hereinafter only "Membership Meeting"),

b) Board of Representatives [predstavenstvo],

c) Control Commission,

d) other cooperative bodies in accordance with this law and the bylaws.

Section 16
Membership Meeting

1. The Cooperative's highest body is the Membership Meeting at which members assert their right to decide on the Cooperative's affairs.

2. The Membership Meeting takes place within periods set forth in the bylaws, at least once a year.

4. A Membership Meeting must be called when requested in writing by at least one-third of all members of the Cooperative, by the Control Commission, and in other cases specified in the bylaws.

4. The Membership Meeting's authority includes:

a) approval of and change in the bylaws,

b) election and recall of members of the Board of Representatives and the Control Commission,

c) approval of the annual balance sheet, distribution and use of profits or decision on ways to make up for losses,

d) decision on whether the Cooperative shall be divided, merged, absorbed or dissolved,

e) decision on basic questions involving the Cooperative's future development.

5. The Membership Meeting decides on other matters concerning the Cooperative and its operations insofar as provided for in this law or the bylaws, or if it has reserved for itself decision in a specific matter.

6. Cooperative bylaws may stipulate that Membership Meetings will be conducted in the form of partial Membership Meetings. Partial Membership Meetings may not make decisions on the Cooperative's dissolution and in other cases specified in the bylaws.

7. If, due to the Cooperative's size, it is not possible to convoke Membership Meetings, the bylaws may stipulate that in lieu of a Membership Meeting an assembly (conference) of delegates elected by cooperative members may be called. In this case the bylaws shall specify in greater detail the conditions for delegate elections.

Section 17
Board of Representatives

1. The Board of Representatives is the executive and statutory body of the Cooperative;[1] it directs the Cooperative's activities and decides on all matters, with the exception of those reserved to another body by this law, the bylaws or the decision of the Membership Meeting. For its activity it is accountable to the Membership Meeting.

2. The Board of Representatives ensures and oversees implementation of the Membership Meeting's decisions, regularly reports to it on its activities and the activities of the Cooperative; it convokes the Membership Meeting and prepares its agenda.

3. The Board of Representatives meets as needed, as a rule once a month. It must meet within 10 days of receipt of a motion of the Control Commission if the latter's request failed to obtain redress of a deficiency.

4. From among its members the Board of Representatives elects the chairman of the Cooperative (of the Board of Representatives), possibly also a deputy chairman (chairmen), unless the bylaws provide for their election by the Membership Meeting.

5. The chairman of the Cooperative organizes and directs the agenda of the Board of Representatives. If so provided in the bylaws, he organizes and directs also the day-to-day operation of the Cooperative (Section 4 item 1 g).

6. The bylaws determine the way in which the Board of Representatives handles outside affairs.

Section 18
Control Commission

1. The Control Commission is empowered to exercise control over all activities of the Cooperative; it handles complaints of its members and, if so provided in the bylaws, also of its employees. It reports solely to the Membership Meeting and is independent of other bodies of the Cooperative.

2. The Control Commission examines the annual account balance and proposals for profit distribution or making up for the Cooperative's loss.

3. When shortcomings are found the Control Commission brings them to the attention of the Board of Representatives and requests remedial measures.

4. The Control Commission meets as needed, at least once every three months.

5. From among its members the Control Commission elects a chairman and possibly also a deputy chairman, unless the bylaws provide for their election by the Membership Meeting.

COMMON PROVISIONS RELATING TO COOPERATIVE BODIES

Section 19

1. Only members over 18 years of age can be elected to cooperative bodies.

2. Membership in the Board of Representatives and in the Control Commission are incompatible with each other. Other cases of incompatibility of offices are stipulated in this law, or in the bylaws.

3. The term of office for the Cooperative's elected officials is five years, unless the bylaws provide for a shorter term; however, elected officials remain in office until new officials are elected.

Section 20

1. The Membership Meeting, the Board of Representatives, and the Control Commission can transact business if more than one-half of all their members (delegates) are present.

2. A decision, including election of cooperative officials, is adopted if more than one-half of those present voted for it, unless this law stipulates otherwise.

3. For a decision to be valid involving adoption of and change in the bylaws and dissolution of the Cooperative (Section 8) approval of at least one-half of all members (delegates) is required.

4. Details on the election and recall of cooperative management bodies and their proceedings and verification of minutes shall be regulated by rules on elections and proceedings; the method of their approval is provided in the bylaws.

Section 21

In a cooperative with small membership (up to 30 members), the bylaws may stipulate that the authority of the Board of Representatives and the Control Commission is exercised by the Membership Meeting which elects from among members a chairman who is the statutory body of the Cooperative,[1] possibly also a deputy chairman.

Section 22
Director

1. The bylaws may stipulate that the day-to-day operation of the Cooperative (Section 17 item 5) shall be organized and directed by a director, to be appointed and recalled by the Board of Representatives. The authority of the Cooperative's Board of Representatives is not affected thereby.

2. The status, activities, and responsibilities of the director are set forth in the bylaws.

Section 23
Internal Organization of the Cooperative

1. The Cooperative's internal organization is regulated by the organizational bylaws, or alternatively another intracooperative organizational code. An internal organizational unit may not bear the designation of a "cooperative."

2. If appropriate, the granting of a procura [signing power][2] is subject to decision by the Cooperative's statutory body.

PART THREE
MEMBERSHIP

Section 24
Initiation of Membership

1. Conditions under which membership may be initiated are set forth in the law and the bylaws.

2. Membership in a cooperative where work requirement constitutes a condition of membership is open to citizens who have completed compulsory schooling but not before reaching age 15.

3. Unless the bylaws provide otherwise and the Cooperative does not agree with the member on the day on which membership begins, membership begins on the basis of submitted application on the day the Board of Representatives rules in favor of accepting the member; in cases where work requirement constitutes a condition of membership, membership begins on the day which

was agreed upon as the day of beginning work in a written agreement on work conditions (Section 33 item 2 a).

Section 25
A Cooperative Member's Basic Rights and Obligations

1. A member has the following basic rights:

a) to participate in the management and control of the Cooperative's activities directly or through elected officials,

b) to vote for and be elected to the Cooperative's bodies,

c) to submit proposals for improving the Cooperative's operation, make comments and raise questions addressed to the Cooperative's bodies and be informed of their disposition,

d) to share in the benefits which the Cooperative offers its members according to the bylaws and generally applicable legal statutes.

2. A member has the following basic obligations:

a) to comply with the bylaws and carry out decisions of the Cooperative's bodies,

b) to contribute assets in the extent set forth in the bylaws or as provided by law,

c) to be liable for a possible loss suffered by the Cooperative in the manner provided for in the bylaws,

d) to sustain and develop the Cooperative economy, protect and enhance the Cooperative's assets.

3. In a cooperative where work requirement is a part of membership the member also has the right and duty to work according to agreed terms. The member is entitled to remuneration for work performed in the Cooperative: The amount of remuneration depends on the Cooperative's economic results and the member's personal share in them. The remuneration system shall be regulated by the Cooperative in its internal bylaws, in harmony with generally applicable legal statutes governing wage levels.

43. In the decisions of cooperative bodies including elections each member has one vote.

Section 26
Termination of Membership

In cases where work requirement is a part of membership, membership in a cooperative ceases in accordance with the provisions of labor law (Section 33); provisions of Sections 28 to 31 of this law may not be applied.

Section 27

In cases where work requirement is not a part of membership, cooperative membership is terminated by

a) agreement,

b) resignation,

c) expulsion,

d) death,

e) dissolution of the Cooperative through liquidation.

Section 28
Agreement

1. If the Cooperative and the member agree on membership termination, membership ceases on the day that has been agreed upon.

2. The agreement on membership termination is concluded between the Cooperative and the member in writing. Upon the member's request, it must include the reasons leading to the termination of membership. The Cooperative provides the member with one copy of the agreement on membership termination.

Section 29
Resignation

1. A member may withdraw from the Cooperative on the basis of a written resignation for any reason or without giving a reason. Membership expires within two months of the first day of the calendar month following the delivery of the member's written resignation to the Cooperative.

2. A member may revoke his resignation only in writing and with the Cooperative's consent.

Section 30
Expulsion

1. The Board of Representatives may decide to expel a member:

a) if he was duly convicted for an intentional crime committed against the Cooperative, its property, or its members,

b) if he violated in a grave fashion or repeatedly his member obligations set forth in the law or the bylaws.

2. The Board of Representatives may decide on the expulsion of a member not later than two months from the day when it found the reason for expulsion and not later than one year from the day when this reason originally occurred.

3. If the member's conduct which may appear to constitute a reason for expulsion in accordance with item 1 b) above is the object of investigation by another body, the two-month period according to item 2 above begins on the day when the Cooperative learned of the result of this investigation.

4. The decision on expelling a member from the Cooperative must list a reason in conformance with item 1

above which may not be subsequently modified; membership expires on the day when the Board of Representatives' decision on expulsion was delivered to the member.

Section 31
Court Protection

1. If the member disagrees with the Board of Representatives' decision on expulsion, he may within a month of receipt of the decision file a petition with the court to rule the expulsion invalid.

2. In case the termination of membership according to item 1 is ruled invalid, the damaged party is entitled to reimbursement of damages.

Section 32
Closing Account

1. If membership is terminated, the Cooperative shall furnish a final account of mutual rights and obligations within one month of approval of the closing account for the calendar year in which membership ceased, but not later than 30 June of the following calendar year. Details of account closing and settlement are determined by the bylaws (Section 4 item 1 e).

2. Provisions in point 1 above do not apply to claims resulting from the member's work relationship.

Section 33
Members' Work Relationships

1. Cooperative members' work relationships where work requirement is also part of membership are subject to the Labor Code, except for provisions that regulate:

1) applicability of the Labor Code in regard to special categories of workers,

2) worker participation in the development, management, and control of the organization,

3) an umbrella labor contract,

4) participation of trade unions in transfers and reassignments and in dissolving the work relationship,

5) authority of senior management personnel and bodies in imposing disciplinary measures,

6) social control of trade unions,

7) provisions on setting up arbitration commissions,

8) transfer of the rights and responsibilities from Labor Code relations,

9) relationships subject to labor law in which a participant is another organization and a work relationship agreed upon between citizens.

2. Interpretation of certain terms:

a) where the Labor Code refers to work relationship it is deemed to mean a membership relationship; where it refers to sideline work relationship it is deemed to mean a membership relationship with a sideline work obligation; where it refers to labor contract it is deemed to mean an agreement on work conditions constituting an element of the membership application,

b) insofar as the Labor Code regulates authority for the processing and settlement of labor disputes, arbitration commissions are set up in accordance with the bylaws; details of the arbitration process are subject to general regulations with possible deviations as set forth in the bylaws,

c) sideline activity can be performed only within a work relationship or on the basis of agreements on work performed outside the work relationship,

d) The Cooperative's labor regulations are subject to the Membership Meeting's approval; the labor regulations stipulate who is authorized to impose disciplinary measures on the Cooperative members and workers,

e) in cases where the Labor Code allows for adjusting certain work or wage conditions by means of a collective contract, such adjustment can be carried out by decision of the Membership Meeting,

f) where the Labor Code refers to the work collective it is deemed to mean the collective of members.

PART FOUR

Section 34
Associations

To promote their development cooperatives, cooperative enterprises, and interest organizations may voluntarily associate among themselves as well as with other Czechoslovak and foreign legal and physical entities with common interest, and in so doing they are unrestricted in utilizing all forms of association permitted under the Czechoslovak legal code.

Section 35
Interest Organizations

1. To foster mutual assistance and cooperation and to sustain their professional and other interests, cooperatives may form interest organizations (such as associations of cooperatives). Membership in an interest organization is voluntary.

2. Foundation of an interest organization according to item 1 above requires a decision of assembled authorized representatives of cooperatives on its foundation, approval of bylaws, and election of officials.

3. The interest organization is a legal entity; in legal relations it conducts itself under its name and bears responsibility ensuing from these relations.

4. Bylaws of the interest organization shall regulate in particular the initiation and termination of membership, members' rights and obligations, its activities and goals, its bodies and their authority, method of operating,

principles of the creation, utilization and management of social defined-purpose funds, and the material consequences of dissolution.

5. An interest organization may cease to exist by a decision of assembled authorized representatives to divide, merge, absorb, or liquidate it.

Section 36

1. Interest organizations (Section 35) may form joint interest organizations for the purpose of handling common cooperative business and to sustain and put forward the interests of cooperatives and their members.

2. Organizations referred to in item 1 above are subject correspondingly to provisions of Section 35 items 2 to 5.

PART FIVE
SINGLE-FOUNDER COOPERATIVE ENTERPRISES

Section 37

1. A cooperative enterprise may be founded by a cooperative or an interest organization (hereinafter only "founder").

2. A cooperative enterprise is a legal entity; it comes into being by the founder's decision on the day of entry in the enterprise register.

3. A cooperative enterprise operates with the property of the founder which was entrusted to it, and with assets acquired by its activity; these assets it is entitled to manage.[3]

4. Application for the enterprise's entry in the enterprise register is filed by the founder. The application must include:

a) a founding certificate,

b) approval of the purpose of business (activity), if special regulations require such approval.

5. The founding certificate to be issued by the founder must contain:

a) founder's designation;

b) name and location of the enterprise—the name must exclude the possibility of being interchangeable with names of other organizations and must clearly show that the subject is a cooperative enterprise;

c) definition of the basic purpose of business (activity);

d) description of the assets entrusted to the enterprise at its foundation, or arrangements involving a transfer of rights and obligations that may be passed on to the enterprise being founded;

e) delimitation of the period for which the enterprise is founded, or delimitation of the purpose for which it is founded;

f) definition of relationships including financial between the founder and the enterprise and of the extent of the founder's liability for obligations in case of the enterprise's liquidation.

6. The Cooperative enterprise is not liable for the founder's obligations; the founder is not liable for the Cooperative enterprise's obligations. The balance sheet and distribution of profits (loss) of the enterprises are subject to the founder's approval.

7. The Cooperative enterprise ceases to exist on the basis of the founder's decision by erasure from the enterprise register.

Section 38

1. The Cooperative enterprise is headed by a director (or other senior manager) appointed by the founder. He directs the enterprise's operation and is responsible for it and its results to the founder; as a statutory agent he acts in all matters in the name of the enterprise.

2. Employees of the Cooperative enterprise perform their duties on the basis of a work relationship or of agreements involving work performed outside a work relationship.

PART SIX
RELATIONS BETWEEN COOPERATIVE AND STATE

Section 39

1. The activity and territorial range of a cooperative may be restricted or interfered with solely under conditions and in ways specified by law.

2. Against interference by agencies of economic management in its activity where such interference violates the generally applicable legal statutes, the Cooperative may seek protection from economic arbitrage under conditions set forth by the law.

3. A state body which causes damage by unwarranted interference in the Cooperative's activity is obligated to reimburse it. The conditions and extent of reimbursement, as also cases in which no reimbursement is made, are specified by law.

4. If the Cooperative by its activity causes material damage to the state or another subject, it is obligated to reimburse it under conditions and in the extent specified by law.

5. Control activities can be carried on in a cooperative solely by agents whose control functions are regulated by law. State agencies perform this activity with participation of a representative of the Cooperative's Control Commission.

Section 40

1. By generally applicable legal statutes the state creates the conditions for a prosperous development of cooperatives; it pays special attention and especially makes financial means available to cooperatives of disabled persons and to their social mission, and to cooperatives underwriting the construction and operation of cooperative housing within the framework of the state's social programs.

2. Central agencies of the state administration are obligated to review with interest organizations established on the republican or federal level (Sections 35 and 36), as appropriate according to their authority, proposed legislation, other generally applicable legal statutes and significant measures affecting the Cooperative business.

PART SEVEN
SPECIAL PROVISIONS ON COOPERATIVES

Section 41
Membership of Legal Persons in Cooperatives

If the Cooperative's bylaws permit, a legal person may become member of the Cooperative.

Section 42
Special Provisions on Membership in Housing Construction Cooperatives

1. Membership ceases with the member's death, unless the law provides for its passing on to an heir.[4]

2. Spousal joint membership may cease after a divorce by its conversion into separate memberships of the divorced partners either by agreement or court order, if the content of the joint membership included more user rights.

3. A member may by agreement transfer his member rights and obligations to relatives in the direct line, siblings, husband, former husband and other persons close to him living in a common household with the member; transfer of member rights and obligations to other persons is regulated by the bylaws.

4. Part of an agreement on apartment exchange is also agreement on the transfer of member rights and obligations.

Section 43
Employees of Cooperatives

1. A cooperative which does not require a work relationship as a condition of membership may hire employees to perform duties in a legal employment relationship.

2. In its activity the Cooperative takes advantage of the experience, professional skills, and active engagement of its employees and their trade union body whose representatives it invites to the proceedings of the Membership Meeting and the Cooperative's Board of Representatives.

3. A cooperative, the membership in which includes a work relationship, may hire workers in an employment status or on the basis of agreements on work performed outside a work relationship, insofar as the bylaws permit.

Section 43 [as published]
Committee

1. In cooperatives with more than 5,000 members the bylaws may stipulate that in the period between sessions of the Cooperative's Membership Meeting its authority can be exercised by the Cooperative's committee; however, the committee may not adopt and change the bylaws or decide on a division, merger, absorption, or liquidation of the Cooperative.

2. The Cooperative's committee is elected by the Membership Meeting; the number to be elected is specified in the bylaws.

Section 45
Commission for Care of Members

1. In cooperatives where a work relationship is part of the membership, the Membership Meeting elects a commission for care of members reporting to it on its activity.

2. In the protection of members' rights and interests the commission for care of members has the rights and obligations of a trade union body, especially in reviewing changes in the agreed labor conditions, termination of membership on the part of the Cooperative, social control of compliance with legal statutes governing labor, and the state of work safety and health protection on the job.

3. More details on the authority of the commission for care of members are specified in the bylaws.

4. Chairman of the commission for care of members is elected in accordance with the bylaws.

5. In cooperatives with a small membership (Section 21) the Membership Meeting may entrust one of the Cooperative members with carrying out the commission's functions.

6. Membership in the commission is incompatible with membership in the Board of Representatives or the Control Commission.

PART EIGHT
COMMON, TRANSITIONAL, AND CONCLUDING PROVISIONS

Section 46
Common Provisions

1. A member elected to office may resign but he is obligated to give notice of his resignation to the body of which he is a member. Exercise of office ends on the day when the resignation is reviewed by the body authorized to do so according to this law or the bylaws. This body must review the resignation at its first session following

receipt of information about the resignation; this provision does not apply to members of a cooperative where work relationship is part of membership.

2. Disputes arising between legal persons due to dissolution of the Cooperative are resolved by economic arbitrage.

3. Disputes involving rights and obligations between the Cooperative and a member (citizen) which arise from the membership relation, as well as disputes over account settlement (Section 32) are resolved by the court, unless this law specifies otherwise.

Section 47
Transitional Provisions

1. Unless stated otherwise further on, this law also governs legal relations which originated prior to 1 June 1990; however, claims from legal relations originating prior to 1 June 1990 are adjudicated in accordance with the then applicable regulations.

2. Cooperatives founded before this law took effect (housing, consumer, production and other) are cooperatives according to this law.

3. Associations of cooperatives formed before this law took effect are interest organizations and the Central Council of Cooperatives is a joint interest organization according to this law (Sections 35 and 36).

4. Bylaw provisions of cooperatives, interest organizations and the joint interest organization, as also provisions of other internal cooperative bylaws which are in conflict with this law become invalid when this law takes effect.

Section 48

1. For defining the type of the Cooperative for the purpose of legal statutes governing relationship to the state budget (taxes, levies, and so on), the determining factor is the object of activity as entered in the enterprise register.

2. Cooperative enterprises formed by a single founder prior to this law taking effect are cooperative enterprises according to this law.

3. Cooperative enterprises with multiple founders formed in accordance with earlier legal provisions are joint enterprises according to special regulations.

4. Covenants, founding certificates, or contracts on founding a cooperative enterprise must be brought by the founder into conformity with this law and Sections 106 zd) and following of the Economic Code, effectively within six months of this law taking effect.

5. Cooperatives and interest organizations formed according to the earlier regulations and the Central Council of Cooperatives shall adopt bylaws conforming to this law not later than 30 April 1991. In this period expires also the term of office of officials elected prior to this law taking effect. Amendments in the bylaws of interest organizations can be carried out by their authorized bodies.

Section 49
Forming a Cooperative by Severance

1. Members of an organizational unit in the Cooperative (such as a central worksite [stredisko], plant, workshop, self-administration, etc.) who became cooperative members owing to a merger of the Cooperative may, on the basis of a decision by more than one-half of members of the collective, petition the Cooperative's Membership Meeting, but not later than 30 June 1991, for consent to the severing out of members, assets, and activities, with the effect of forming a new cooperative.

2. If the Membership Meeting fails to express consent with the severance according to item 1 above within 60 days of receipt of the petition as defined above, members of the Cooperative's organizational unit may decide on such severance by themselves provided it is so resolved by more than one-half of members of its collective.

3. The new cooperative comes into being on the day of its entry in the enterprise register. The application for entry shall include data on members severed out and a protocol containing particularly data on what assets, rights and obligations are included in the severance; the protocol is subject to approval by the Cooperative's Board of Representatives and more than one-half of members of the organizational unit to be severed. If there is no agreement on the content of the protocol, a statement to this effect is to be appended to the application for entry.

4. Property disputes resulting from severance are resolved by economic arbitration.

Section 50
Repeal Notice

Law No. 94/1988 of the Collection on Housing, Consumer, and Production Cooperatives is hereby repealed.

Section 51
Effective Date

This law becomes effective on 1 June 1990.

Footnotes

1. Section 24 f) of Law No. 109/1964 of the Collection, in the version of later implementing decrees.

2. Section 24 l) and 24 m) of the Economic Code.

3. Section 95 para. 1 of the Economic Code.

4. Section 179 para. 2 of the Civil Code.

Agricultural Cooperatives Law Promulgated

90CH0151A Prague ZEMEDELSKE NOVINY in Czech 15 May 90 pp 5-6

[Report in ZEMEDELSKE NOVINY "Law on Agricultural Cooperatives"]

[Text] The Federal Assembly of the Czech and Slovak Federal Republic has passed the following law:

PART ONE

CHAPTER ONE
GENERAL PROVISIONS

Section 1
The Purpose of the Law

The purpose of the law is to regulate the status, legal relations, and principles of the activity of agricultural cooperatives (hereinafter Cooperatives) and other agricultural cooperative organizations.

Section 2
The Cooperative

1. A Cooperative is the voluntary association of citizens (hereinafter Members), who together manufacture agricultural products and foodstuffs, farm, and perform other activities to satisfy and support their interests. They operate on agricultural lands, as well as in forests, lakes and rivers, and ponds with fisheries, which they utilize.

2. A Cooperative is a juridical person; it is not liable for the obligations of other juridical entities.

3. The affairs of the Cooperative are managed by a Membership Meeting and elected management of the Cooperative in accordance with universally binding legal provisions, bylaws of the Cooperative, and other internal cooperative regulations.

4. The Cooperative carries out its activities independently and at its own cost; in so doing it accepts an appropriate business risk.

Section 3
The Founding of the Cooperative

1. To found a Cooperative the following are necessary:

a) a decision by the founding meeting on its establishment;

b) acceptance of the bylaws of the Cooperative;

c) election of the management of the Cooperative.

2. The Cooperative may acquire rights and obligations from the date on which it is entered into the enterprise register.

3. The application to be entered into the enterprise register is submitted by the Cooperative; the bylaws of the Cooperative and the decision by the founding meeting must be appended to the application.

4. The Cooperative may only carry out activities which require a special permit if it has such a special permit.

Section 4
The Bylaws of the Cooperative

1. The basic internal regulations of the Cooperative are the Cooperative's bylaws (hereinafter Bylaws). The Bylaws must include:

a) the name of the Cooperative, which must clearly indicate that it is a Cooperative;

b) the domicile of the Cooperative;

c) the objectives of the activities of the Cooperative;

d) provisions on the commencement and cancellation of membership, on the rights and obligations of the Members, as well as the steps to be taken if Members do not fulfill their membership obligations;

e) provisions on the amount of the membership share, the manner of determining it, and/or the basic membership investment or other property participation, the types and methods of their creation and utilization, upvaluing, that is to say amortization, the method in which they are underwritten (invested), and how they are distributed on cancellation of the membership;

f) the method and extent to which a Member is liable for any losses incurred by the Cooperative;

g) detailed provisions on the management of the Cooperative, their makeup, the term of their office, the methods by which they are elected, and decisionmaking on who organizes and manages the routine activities of the Cooperative (Section 16, para. 5, Section 22);

h) provisions on the care of the Members-pensioners, and on providing security for the social conditions and further useful employment of a Member with altered work ability.

2. The Bylaws must not contradict this law or other universally binding legal provisions.

3. The Bylaws and their amendments must be appended to the application for entry in the enterprise register.

Section 5
The Property of the Cooperative

1. The property of the Cooperative is to be interpreted as those objects to which the Cooperative has ownership rights and those to which the Cooperative acquired property rights.

2. The property of the Cooperative is created by combining the Members' resources (enrollment fees, membership shares, investments, material contributions, and other appraisable intangible, material, and financial investments) and from the results of the activities of the

Cooperative, and/or from other sources. Property may only be confiscated from a Cooperative under conditions stipulated by the law.

Section 6
The Business Operations of the Cooperative

1. The Cooperative finances its needs and expenses primarily from its own activities, as well as from other sources.

2. The Cooperative pays taxes and deductions from its profits. The remaining profit is used independently by the Cooperative and cannot be confiscated.

3. Write-offs from basic resources are retained by the Cooperative in their entirety and the Cooperative may dispose of them independently.

4. To finance its expansion, the Cooperative may issue bonds; the way in which they are issued, their amount, and their assessment are decided by the Membership Meeting in accordance with universally binding legal provisions.

5. The Cooperative may also transact business with the property of other juridical persons or citizens, on the basis of a contract concluded in accordance with universally binding legal provisions.

The Discontinuance of the Cooperative

Section 7

1. The Membership Meeting may decide to discontinue the Cooperative either with or without liquidation. The Cooperative is discontinued from the date on which it is deleted from the enterprise register.

2. The Cooperative is discontinued without being liquidated through a merger, takeover, or division.

3. The Cooperative which has taken over the property and the obligations of a discontinued Cooperative is obligated without delay to notify other juridical entities, affected by the discontinuance of the Cooperative, of its discontinuance and the transfer of its property and obligations; if it is liquidated, this obligation passes to the liquidator.

Section 8
Mergers and Takeovers

1. The property and obligations of the Cooperative that is taken over by another are transferred to the Cooperative which is taking it over.

2. If Cooperatives are being merged, their property and obligations are transferred to the newly created Cooperative on the date on which the newly created Cooperative is entered into the enterprise register.

3. Members of a discontinued Cooperative become Members of the Cooperative that is taking over the newly created Cooperative.

Section 9
Division

1. The Membership Meeting of the Cooperative that is being divided establishes how the Cooperative, its property, and its obligations are to be divided.

2. A Cooperative may be divided even if only a minority of Members request the division to found a Cooperative according to this law.

3. The divided Cooperative is discontinued, and its property and obligations are transferred to the new Cooperatives on the date on which they are entered into the enterprise register, to the extent stipulated by the Membership Meeting of the divided Cooperative. On that same date the Members of the divided Cooperative become Members of the new Cooperatives.

The Liquidation of the Cooperative

Section 10

1. If the Membership Meeting decides to liquidate the Cooperative, it appoints a liquidator.

2. The Cooperative must submit a notification, to be entered into the enterprise register, stating that the Cooperative is being liquidated and giving the name of the liquidator.

3. On the date on which this entry is made into the enterprise register, all functions of the Cooperative management cease, with the exception of the Membership Meeting.

Section 11

1. The liquidator is authorized to act in the name of the Cooperative in all matters in regard to the liquidation.

2. Without delay the liquidator must notify all organizations, managment, and other individuals who might be affected, that the Cooperative is being liquidated.

3. On the day on which liquidation is to start, the Cooperative must draw up a closing balance sheet and accounting report, and submit them to the liquidator.

Section 12

1. Within one month of his appointment to the job, the liquidator must compile an initial report and submit it to the Membership Meeting along with a liquidation plan, a liquidation budget, and a report on the extraordinary inventory of the operational resources up to the day of the initiation of the liquidation.

2. In the course of liquidation, the liquidator shall:

a) accumulate all financial resources in one account with one banking institute;

b) conclude all routine matters connected with the activities of the Cooperative;

c) convert all property of the Cooperative into money in the most advantageous way possible, or invest it in some way in accordance with universally binding provisions;

d) from the proceeds of the liquidation, systematically satisfy the debts to the state in deductions, taxes, and rates; then the debts to the Members and employees of the Cooperative, including settling the membership shares and other property investments (Member participation); and return any resources granted to the Cooperative for investment from state sources during the five years prior to the liquidation; and then settle all other debts.

Section 13

1. On the date the liquidation is concluded, the liquidator must compile a final accounting report, a final report on the course of the liquidation, and a suggestion as to how any surplus from the liquidation should be divided, and submit them to the Membership Meeting for its approval.

2. Any surplus after liquidation will be divided among the Members according to their membership shares or their property investments.

3. The liquidator must submit an application to have the Cooperative deleted from the enterprise register and must ensure the safekeeping of all written documents and accounting records for the period stipulated by a special regulation.

CHAPTER TWO
THE COOPERATIVE BODIES

Section 14

The Bodies of the Cooperative are:

a) the Membership Meeting;

b) the Board of Representatives;

c) the Control Commission;

d) other organizations of the Cooperative according to the provisions of this law.

Section 15
The Membership Meeting

1. The highest level of the Cooperative organization is the Membership Meeting, in which the Members assert their right to make decisions about the affairs of the Cooperative.

2. The Membership Meeting meets at intervals established in the Bylaws, but no less than once per year.

3. A Membership Meeting must be convened if at least one-third of all the Cooperative Members, or the Control Commission request it in writing, as well as on other occasions stipulated in the Bylaws.

4. The activities of the Membership Meeting include:

a) accepting and changing the Bylaws;

b) electing and dismissing the Members of the Managing Committee and Control Commission;

c) approving the annual accounting report and distribution and utilization of profits, that is to say the manner in which a loss will be settled;

d) decisionmaking on basic changes in the land fund;

e) decisionmaking on division, mergers, takeovers, and discontinuance of the Cooperative.

5. The Membership Meeting makes decisions on other matters concerning the Cooperative and its activities, inasfar as this law, or the Cooperative's Bylaws so stipulate, or if it has reserved decisionmaking on certain matters for itself, and such matters are not assigned to other cooperative bodies by the law.

6. The Cooperative's Bylaws may stipulate that the Membership Meetings may also be subdivided into partial Membership Meetings.

7. If, due to the size of the Cooperative, it is not possible to convene a general Membership Meeting, the Bylaws may stipulate that an assembly (committee, conference) of delegates, elected by the Members of the Cooperative, may be convened instead of the Meeting. The Bylaws must also establish more detailed prerequisites for the election of delegates.

Section 16
The Board of Representatives

1. The Board of Representatives directs the activities of the Cooperative and makes decisions on all matters that are not assigned to another group by this law, the Bylaws, or a decision by the Membership Meeting. It is accountable to the Membership Meeting for its activities.

2. The Board of Representatives guarantees and controls the execution of decisions made by the Membership Meeting, it regularly informs it of its activities and the activities of the Cooperative; it convenes the Membership Meeting and prepares its agenda.

3. The Board of Representatives meets whenever necessary, generally once per month. It must convene within ten days of receiving a notification from the Control Commission, unless the deficiencies were removed as it requested.

4. The Board of Representatives elects the chairman of the Cooperative (Board of Representatives) from among its Members, as well as the deputy chairman (deputy chairmen), unless the Bylaws stipulate that these should be elected by the Membership Meeting.

5. The chairman of the Cooperative, as the chairman of the Committee, organizes and directs the agenda of the Board of Representatives. If the Bylaws so stipulate, he also organizes and directs the routine activity of the Cooperative (Section 4, para. 1 g).

Section 17
The Control Commission

1. The Control Commission has the right to control all the activities of the Cooperative; it deals with Membership complaints and, if the Bylaws so stipulate, also with employees' complaints. It is accountable only to the Membership Meeting, and is independent of the other groups of the Cooperative.

2. The Control Commission is consulted on the annual accounting report and the proposal on distribution of profits or settling losses of the Cooperative.

3. The Control Commission notifies the heads of the appropriate organization units and Cooperative organizations of deficiencies it has found, and demands redress.

4. The Control Commission is convened whenever necessary but no less than once per three months.

5. The Control Commission elects the chairman, and deputy chairman from among its Members, unless the Bylaws stipulate that these should be elected by the Membership Meeting.

Joint Provisions on the Organizations of the Cooperative

Section 18

1. Only Members of the Cooperative over 18 years of age may vote and be elected or appointed to the organizations of the Cooperative.

2. The functions of a Member of the Cooperative's Board of Representatives cannot be combined with those of a Member of the Control Commission. Other cases where functions cannot be combined are established by this law, that is to say the Bylaws.

3. The term of office for the elected Board of Representatives of the Cooperative is five years, unless the Bylaws set a shorter term; however, the elected Board of Representatives will continue their functions until the new Board of Representatives is elected.

Section 19

1. The Membership Meeting, Board of Representatives, and Control Commission are empowered to make decisions if more than 50 percent of their Members or delegates are present.

2. A decision, including the election of the Cooperative's Board of Representatives, is ratified if more than 50 percent of those present voted for it, unless this law states otherwise.

3. For a decision on the acceptance of Bylaws, changes in them, or the discontinuance of the Cooperative (Section 7) to be valid, it is necessary to obtain the consent of more than 50 percent of all the Members or delegates, with the exception of the cases stipulated in Section 9, para. 2.

4. Details on the election of the Board of Representatives of the Cooperative, on their activities and verification of reports will be established by the electoral and procedural code; the manner in which they are approved will be established by the Bylaws.

Section 20

If a Cooperative has fewer than 50 Members (hereinafter Small Cooperative), the Bylaws may stipulate that the activities of the Board of Representatives and the Control Commission will be performed by the Membership Meeting, which will elect the chairman and deputy chairman from among the Members.

Section 21
The Legal Entity

1. The legal entity[1] of a Small Cooperative (Section 20) is the chairman. In other Cooperatives the Bylaws establish whether the chairman or the Board of Representatives will be the legal entity. If the Board of Representatives is the legal entity, the Bylaws must stipulate in what manner it is allowed to proceed when dealing outside the Cooperative.

2. The Board of Representatives decides on conferring the power of procuration.[2]

Section 22
The Manager

1. The Bylaws may stipulate that the routine activities of the Cooperative will be directed by a manager, appointed and dismissed by the Board of Representatives. This does not affect the activities of the Board of Representatives in any way.

2. The Bylaws establish the status, activities, and tasks of the manager.

Section 23
The Internal Organization of the Cooperative

The organization code, as well as other internal cooperative organization regulations, establish the internal organization of the Cooperative. An internal organization unit of the Cooperative may not itself be called a Cooperative.

CHAPTER THREE
MEMBERSHIP

Section 24
Commencement of Membership

1. The prerequisites for becoming a Member are established by the law and the Bylaws. A citizen, who has

reached 15 years of age and has completed his compulsory education, may become a Member of a Cooperative in which a working relationship is an integral part of the membership.

2. Unless the Bylaws state otherwise, and as long as the Cooperative does not conclude a contract with the Member as to the day on which his membership becomes effective, membership commences on the basis of a submitted application and the decision by the Board of Representatives as to his acceptance; in those cases when an integral part of the membership is a working relationship, membership commences on the day that was agreed as the date of commencement of employment in a written contract on the working relationship (hereinafter Contract on the Working Relationship).

3. In the Contract on the Working Relationship a probation period of up to three months may be set. The set probation period cannot be extended. During the probation period both the Cooperative and the Member may cancel the membership in writing at any time without stating a reason. The probation period must be agreed in writing, otherwise it is invalid.

4. If there is a period during the probation period when the Member cannot perform his work in the Cooperative because of obstacles in the work, this may be included in the probation period only up to a maximum of 10 days.

Section 25
The Basic Rights and Obligations of a Member of the Cooperative

1. A Member has the following basic rights:

a) to participate in the Board of Representatives and control of the Cooperative's activities, directly or through the elected Board of Representatives;

b) to vote for or be elected to the Board of Representatives of the Cooperative;

c) to put improvements in the activities of the Cooperative into practice, to bring reminders and requests to the attention of the Board of Representatives of the Cooperative, and to be informed of their implementation;

d) to participate in the benefits which the Cooperative provides for its Members according to the Bylaws and universally binding regulations.

2. The Member has the following basic obligations:

a) to uphold the Bylaws and implement the decisions of the Board of Representatives of the Cooperative;

b) to share resources to the extent stipulated by the Bylaws or the law;

c) to stand surety for possible losses of the Cooperative in the manner established in the Bylaws;

d) to strengthen and expand the operations of the Cooperative and to protect and improve the property of the Cooperative.

3. If an integral part of the membership is a working relationship, the Member also has the right and obligation to work according to the agreed conditions.

4. In decisionmaking by the Board of Representatives of the Cooperative, including elections, each Member has one voice.

Section 26
Termination of Membership

1. Membership in the Cooperative is terminated:

a) through a contract;

b) through resignation;

c) through expulsion;

d) through death;

e) through the discontinuance of the Cooperative through liquidation.

2. In a Cooperative where an integral part of membership is a working relationship, membership can also be terminated:

a) by being stopped during the probation period;

b) through immediate resignation;

c) through cancellation.

Section 27
The Contract

1. If the Cooperative and the Member conclude a contract to terminate membership, the membership is discontinued on the agreed date.

2. The contract to terminate membership is concluded in written form between the Cooperative and the Member. On the Member's request, the reasons for the termination of membership must be included in it. The Member will receive one copy of the contract on termination of membership.

Section 28
Resignation

1. The Member may resign from the Cooperative on the basis of a written notice for whatever reason, or without giving a reason. The membership is discontinued after a period of six months has passed. This period starts on the first day of the calendar month following the submission of the written notice by the Member to the Cooperative.

2. The notice may only be rescinded in writing by the Member with the Cooperative's consent.

Section 29
Expulsion

1. The Board of Representatives may decide to expel a Member:

a) if he was legally convicted of an intentional criminal act which he committed against the Cooperative, its property, or in connection with performing work in the Cooperative;

b) if he seriously or repeatedly violated his membership obligations, established by the law or Bylaws.

2. The Board of Representatives may make a decision about the expulsion of a Member only within two months of the day when it ascertained the reason for expulsion but no later than one year from the day on which the reason for it arose.

3. If a Member's actions, which could constitute reasons for expulsion according to paragraph 1 b), are the subject of an investigation by another body, the period of two months according to paragraph 2 begins on the date when the Cooperative is notified of the outcome of the investigation.

4. In the decision on a Member's expulsion from the Cooperative, the reason according to paragraph 1 must be given and cannot subsequently be changed; membership is discontinued on the day when the Board of Representatives's decision about the Member's expulsion is delivered.

Section 30
Immediate Resignation

1. The Member may immediately resign from the Cooperative:

a) if, according to a doctor's finding, he is no longer able to perform his work in the Cooperative without seriously damaging his health and the Cooperative does not transfer him to other suitable work within 15 days of his notifying them of the finding;

b) if the Cooperative seriously violated a fundamental obligation, which it had toward him according to the contract on the conditions of work, the Bylaws, or universally binding legal provisions; the Member can only do so within one month from the day on which he discovered the reason for immediate resignation, but no later than one year from the day on which the reason arose;

c) if he does not wish to be a Member of any of the Cooperatives founded according to Section 9; he can only do so within one month from the day on which he was notified of the decision on the division of the Cooperative;

d) if he was removed from his function according to Section 39, para. 1, and does not agree with his new status according to Section 39, para. 2; he can only do so within one month from the day on which the Cooperative's decision was delivered to the Member.

2. A Member who immediately resigned from the Cooperative for the reasons given in paragraphs 1, a) and b), is entitled to compensation for work in the Cooperative in the amount of his average monthly income for the period of two months.

Section 31
Cancellation

1. The Board of Representatives may make a decision to cancel a membership based on a working relationship, if the member:

a) does not fulfill the requirements set by universally binding legal provisions for the performance of the agreed work, or if, through no fault of the Cooperative, he does not fulfill the requirements that are an essential prerequisite for the proper performance of his job; if the reason for the nonfulfillment of these requirements is the Member's unsatisfactory work, the Membership may only be cancelled if, during the prior 12 months the Member had been requested in writing to eliminate the deficiencies and he has not adequately done so;

b) if he becomes redundant as a result of a change in the activities of the organization unit to which he belongs, in its technical equipment, or due to other organizational changes in the Cooperative; this is not applicable if the Member is an owner of land that is a part of the Cooperative.

2. The Cooperative must deliver a written decision to cancel the membership, according to paragraphs 1, a) and b) to the Member. In this case the cancellation comes into force after two months. This period starts on the first day of the calendar month following the delivery of the Cooperative's decision to cancel the membership.

3. The Board of Representatives may also decide to cancel membership if the Member does not commence work on the day agreed in the contract on conditions of work, though there is nothing to prevent his doing so on the part of the work itself. The Membership is cancelled as of the day the Member receives the written decision. The decision to cancel membership must include the reason for cancellation in such a way that it cannot be changed by substituting a different reason. The reason for cancellation stipulated in the decision may not subsequently be changed.

4. Once the decision to cancel membership has been received by the Member, it may only be revoked with his written consent.

5. The Cooperative may only cancel membership for the reasons stipulated in paragraph 1, a if:

a) the Member is unwilling to transfer to other suitable work offered him by the Cooperative or to undergo prior preparation for this other work;

b) it cannot offer him another job commensurate with his abilities, which he could perform despite his deficiencies.

Section 32
Prohibition To Cancel Membership

1. The Cooperative may not cancel a membership based on a working relationship, for the reasons stated in Section 31, paras. 1, a and b:

a) of a pregnant woman, or a female Member or single male Member if he/she is taking care of a child under three years of age;

b) during a period when the Member is legitimately temporarily unable to perform his work due to sickness or an accident, as long as he did not intentionally cause the sickness through drunkenness or the use of narcotics; or from the time when he applies for permission to undergo institutional care or a spa cure until such treatment has been concluded; if the sickness is tuberculosis, this period is extended by six months after completion of the hospital treatment;

c) if the Member is drafted into the armed services, beginning on the day when he received his draft papers, or when the notice of a collective draft was posted up till 15 days after his discharge from the services;

d) during the period a Member is performing civilian service;

e) during the time when the Member has been released from the Cooperative on a long-term basis in order to perform a public function.

Section 33
Recourse to the Courts

1. If the Member does not agree with the decision of the Board of Representatives about the cancellation of his membership, or about the decision of his expulsion, or if the Cooperative does not agree with the immediate resignation of the Member, they may, within one month of receipt of the written decision, or of receipt of deregistration, appeal for a court decision that the cancellation, expulsion, or immediate resignation is invalid.

2. If it is determined that the cancellation of membership according to paragraph 1 is invalid, the injured party is entitled to compensation for the injuries caused.

Section 34
Accounting

If membership is discontinued, the Cooperative must compile a statement on mutual rights and obligations no later than one month after approval of the final accounting report for the calendar year during which the membership was discontinued, but no later than 30 April of the following calendar year. Details on the accounting and settlement are provided in Section 4 para. 1, e.

Membership With a Working Relationship

Section 35
Working Relationship

1. This law and the Bylaws stipulate what is involved in a membership based on a working relationship; in this case, work in the Cooperative is done by its Members; the Cooperative must conclude a contract with them on the conditions of work, which must include:

a) the type of work the Member is to perform;

b) the location of the work (community, organization unit, or other specified place);

c) day of commencement of work;

d) the Member's portion of the work during a calendar year, if he is not to work in the Cooperative for the full term of commitment, unless these matters are determined by election or appointment.

2. The contract on the conditions of work must also include agreements on the following:

a) the benefits the Cooperative will provide to the Member;

b) other provisions of interest to the Cooperative or the Member, which must be agreed.

3. The Contract on the conditions of work and any changes must be in writing. One copy must be provided to the Member.

4. The working relationship between the Cooperative and the Member is regulated by this law; it is regulated by the Labor Code and its provisions on execution only within the limits set by this law. If a pertinent question is not regulated by the Bylaws or other internal Cooperative regulations, the Labor Code is applicable. The Labor Code regulates those portions of the working relationship that regulate:

a) the safety and protection of health during work;

b) the conditions of work of women and young people;

c) responsibility for damage or injury;

d) compensation to the Member, if he is hindered in his work due to reasons of general interest;

e) review of work and confirmation of employment;

f) recording the commencement and termination of a membership, based on a working relationship, in the personal documents of the Member.

5. Details on the working relationships of Members can be regulated by the labor rules of the Cooperative, approved by the Membership Meeting, in accordance with paragraph 4.

6. The Cooperative may also employ a citizen in a working relationship or in some other relationship

according to the labor law. The Board of Representatives decides about the acceptance of the working relationship or other relationship according to the labor law; if the working relationship is not to exceed one month, the chairman or appointed manager may make this decision.

Section 36
Secondary Working Commitment

1. The Cooperative may arrange a secondary working commitment with a Member to perform work of a type other than was agreed in the contract on the conditions of work, outside the specified working hours; this is to be for work that it is not possible, or not expedient to perform according to the preceding provisions of the law. The agreement on a secondary working commitment is a part of the contract on the conditions of work, unless this law states otherwise.

2. With the consent of the Cooperative, the Member may perform his work with the help of his relatives or other persons stipulated in the agreement.

3. The Member is liable for any damage or injury to the Cooperative caused by these other persons, in accordance with the civil code.[3]

Section 37
Work in the Cooperative

1. If the Cooperative cannot find suitable employment for its Member for the whole year, or for the entire term of his working commitment, it is obligated to permit him to work temporarily for another organization.

2. On his request, the Cooperative is obligated to release a Member from performing his work because of daytime studies, performance of a public function, if he becomes entitled to an old-age or disability pension, as well as releasing a female Member or single male Member if he/she is caring for a child. In this case the contract on the conditions of work becomes null and void.

Section 38
Remuneration

1. The Member is entitled to remuneration for his work in the Cooperative; the amount is dependent on the economic position of the Cooperative and the Member's personal share in it.

2. The Cooperative will establish the type and amount of remuneration in its internal cooperative regulations in accordance with universally binding legal provisions about settling wage resources.

Appointment and Dismissal

Section 39

1. The Board of Representatives appoints or dismissed the Managers stipulated in the Bylaws. A written copy of the Board of Representatives' decision to appoint a Member to an office must be delivered to the Member; on the day the notification is delivered, that is to say on the day stipulated in the decision, the contract on the type of work, and/or place of work is altered.

2. Membership in the Cooperative is not discontinued due to dismissal from an office; the Board of Representatives will conclude a contract with the Member on his further employment commensurate with his abilities, qualifications, and the opportunities in the Cooperative. If the Board of Representatives and the Member do not conclude a contract on employment, the Board of Representatives will transfer him to other work commensurate with his qualifications, state of health, and opportunities in the Cooperative.

Section 40

A Member who is elected or appointed may resign his office. However, he is obligated to notify the organization of which he is a Member, or the organization that appointed him to his office about his resignation. Performance of the office ends on the date when the organization, competent according to this law or to the Bylaws, accepted his resignation. This organization must discuss the resignation at its next meeting following the delivery of the resignation, but no later than 15 days after receipt of it.

CHAPTER FOUR

Section 41
Association

Cooperatives may form associations among themselves, or with other Czechoslovak or foreign juridical persons or citizens, voluntarily and on the basis of mutual interests, and in so doing they may make use of any and all types of association permitted by the Czechoslovak legal code.

Section 42
Special Interest Organizations

1. To intensify mutual aid and cooperation, and to support their professions and other interests, Cooperatives may voluntarily form special interest groups, particularly cooperative associations (hereinafter Associations); any juridical person or citizen may be a Member of an association, as long as the Bylaws of the Association so stipulate.

2. For an Association to be founded according to paragraph 1, there must be a decision by a meeting of all authorized delegates of the juridical persons founding the Association, which must express unanimous approval of its founding, acceptance of the Bylaws, and creation of organizations, as well as entry of the Association in the enterprise register.

3. The Association is a juridical person; it operates under its own name in all legal matters, and bears all liabilities issuing from these matters.

4. The Bylaws of the Association will regulate the commencement and termination of membership, the rights

and obligations of the members, the activities and tasks of the Association, the bodies of the Association and its activities, the manner of their operation, the principles of the creation, utilization, and regulation of mutual specific purpose funds, and the consequences in relation to property, should the Association be discontinued.

5. The Association may be discontinued through a decision by the authorized representatives of the Association Members about its division, merger, takeover, or liquidation. It is discontinued as of the date on which it is deleted from the enterprise register.

CHAPTER FIVE

Section 43
The Cooperative Enterprise

1. A cooperative enterprise (hereinafter Enterprise) may be founded by the Cooperative or by a Association of Cooperatives (hereinafter Founder).

2. The Enterprise is a juridical person; it is established on the basis of a decision by the Founder on the date when it is entered into the enterprise register.

3. The Enterprise operates with the Founder's property entrusted to it and with the property it attained as a result of its activities; it has the right to operate with this property.[4]

4. The Founder submits the application to enter the Enterprise in the enterprise register. He must append the following to the application:

a) the founding charter;

b) a permit for the objectives of the enterprise (activities), if special regulations demand such a permit.

5. The founding charter issued by the Founder must include:

a) the name of the Founder;

b) the name and domicile of the Enterprise; the name must eliminate any possibility of confusion with the names of others organizations, must clearly show that it is a cooperative, and the identification number of the organization must also be included;

c) a description of the basic objectives of the Enterprise (activities), that is to say the framework within which the basic objectives (activities) will be pursued;

d) a description of the property entrusted to the Enterprise at its founding, that is to say the provisions on the transfer of rights and obligations if they are to be transferred to the new Enterprise;

e) the length of time for which the Enterprise is being founded, and a description of the task for which it is being founded;

f) a definition of the relationships, including financial ones, between the Founder and the Enterprise, and the extent of the Founder's liability for obligations if the Enterprise is liquidated.

6. The Enterprise is not liable for the obligations of the Founder; the Founder stands surety for the obligations of his Enterprise up to the value of the property entrusted to it. The Founder approves the accounting report and the distribution of the profits (losses) of the Enterprise.

7. The Enterprise is headed by a Manager (or other head), appointed and dismissed by the Founder, who directs the activities of the Enterprise and is answerable to the Founder for them and their results; as a statutory body, he acts in the name of the Enterprise in all matters.

8. The enterprise will be discontinued as a result of a decision by the Founder, on the date it is deleted from the enterprise register.

9. The work in the Enterprise is performed by its employees in a working relationship, or on the basis of a work contract outside the working relationship.

PART TWO

The Relations Between the Cooperative and the State

Section 44

1. The State establishes the prerequisites for the activities of the Cooperative, and regulates these activities through universally binding legal provisions.

2. The activity and operational territory of the Cooperative may only be limited or interfered with under the conditions and in the manner stipulated by the law.

3. The Cooperative may demand protection, through economic arbitration under the conditions stipulated by the law, against any interference into its activities by bodies of economic management which are in conflict with the universally binding legal provisions.

4. Any body of economic management, which causes property loss through its interference in the activities of the Cooperative, is obligated to provide compensation. The conditions and extent of compensation for property loss, as well as those instances where no compensation is necessary, are established by the law.[5]

5. If the Cooperative causes property loss to the state or some other entity through its activities, it is obligated to provide compensation under the conditions and to the extent established by the law.

6. The central agencies of state administration must discuss drafts for laws, other universally binding legal provisions, and basic measures affecting agricultural Cooperatives with the special interest organizations, formed on the Federal or Republic level according to their authority.

7. Control activities in the Cooperative may only be performed by those bodies authorized to perform control functions by the law. State agencies may perform this activity with the participation of the Control Commissions.

8. In its operations and social activities, the Cooperative is obligated to protect as thoroughly as possible the living and natural environment against harmful influences caused by its activity, and particularly to ensure that it does not endanger the health of the citizens. From its own resources it must finance measures to remove damages caused by its activity, as well as measures to create and protect all sectors of the living and natural environment endangered by its activity. The Cooperative is obligated to provide facilities to protect the living and natural environment, to put such facilities into operation together with appropriate production or nonproduction equipment, and to constantly ensure their continual efficient operation.

PART THREE

Section 45
Placing Lands Into Cooperative Ownership

1. The Members place lands (including forests, lakes and rivers, and ponds with fisheries), which they own at the time they enter the Cooperative as well as lands they acquire later while they are Members, at the disposal of the Cooperative for the purpose of joint agricultural exploitation, to the extent stipulated in the Bylaws.

2. The obligation to place the lands into cooperative ownership commences on the day membership begins; however, if a probation period is set in the contract on the conditions of work, the obligation commences after the probation period is over unless membership was cancelled during the probation period.

3. The following are not placed in joint cooperative ownership:

a) lands which are already being used by a Cooperative or another agricultural organization at the time the Member entered the Cooperative;

b) lands where houses, farm buildings, and farm yards have been built, as well as gardens.

The Right of Cooperative Utilization

Section 46
The Extent of the Rights

1. The Cooperative has the right of cooperative utilization of lands placed in cooperative ownership for the purpose of collective cooperative farming, that is to say of lands provided as compensation during the implementation of econotechnological improvements on the lands (hereinafter Cooperatively Owned Lands).

2. The right of cooperative utilization is supreme; it entitles the Cooperative to utilize the Cooperatively Owned Lands using best farming practices, to fulfill all its tasks, above all, to ensure agricultural production.

3. The Cooperative may:

a) implement necessary changes to ensure or increase agricultural production on the Cooperatively Owned Lands;

b) change the nature of Cooperatively Owned Lands and use them to its best advantage;

c) construct buildings necessary for the activity of the Cooperative on the Cooperatively Owned Land.

4. Everything that grows on the Cooperatively Owned Lands is the property of the Cooperative.

5. The Cooperative is entitled to demand protection against any unjustified interference into its right of cooperative utilization; this right is permanently valid.

Section 47
Transfer of Cooperatively Owned Lands

1. With the consent of the owner and through a written agreement, the Cooperative may, in justified cases, transfer the right of utilization:

a) of the Cooperatively Owned Lands to another agricultural organization founded according to Section 41;

b) cooperatively owned forested areas to a forestry organization;

c) cooperatively owned ponds with fisheries to state fishery organizations, that is to say, a fishery organization;

d) cooperatively owned lands on which small hydroelectric plants have been or are to be built to an organization or a citizen.

2. Section 44, paras. 2 to 5 are analogously applicable to the utilization of Cooperatively Owned Lands according to paragraph 1.

Section 48
The Return of Transferred Lands

1. A contract on transferring Cooperatively Owned Lands for utilization can be cancelled with a year's notice on 31 December of the current year, unless the contract states otherwise.

2. Land on which a permanent building was constructed during the utilization period may continue to be utilized by the organization that constructed the building, unless the Cooperative and the organization agree otherwise; this also applies if a citizen constructed the building.

Section 49
Temporary Use of Cooperatively Owned Lands

1. With the consent of the owner and through a written contract, the Cooperative may transfer the Cooperatively Owned Lands to citizens or organizations for agricultural purposes; in exceptional cases, the lands may also be transferred to organizations for nonagricultural purposes.

2. The person to whom the lands were transferred for temporary agricultural use may make adjustments to them, and construct temporary buildings, necessary for agricultural purposes on them, only with the written consent of the owner of the land and the Cooperative. Without the consent of the owner and the Cooperative, building office cannot issue a land-use decision, building permit, or notification that it has no objection to the construction of the building.[6] Anything grown on the lands during the time of temporary use is the property of the producer.

3. The contract on transferring lands for temporary use may also include an agreement on the appropriate payment and manner of property settlement after the temporary use has ended.

4. The right to temporary use is terminated as soon as the period stipulated in the agreement has elapsed. If no period is agreed on, it is terminated as soon as the objectives, for which the lands were temporarily transferred, have been attained. The right to temporary use may be cancelled with a six month notice starting on 31 December of the current year, unless the universally binding legal regulation or the contract between the parties state otherwise.

5. The contract may be instantly cancelled if the user is using the land in a manner counter to what was agreed.

6. On the date when use is terminated, the user is obligated to return the lands to their original state, unless the contract on temporary use, or a subsequent contract states otherwise; however, care must be taken that no unnecessary agricultural losses are incurred.

Section 50
Termination of the Right of Cooperative Utilization

1. The right of utilization is terminated through the transfer of the Cooperatively Owned Land to the ownership of a Cooperative or the state and it is also terminated through the discontinuance of a Cooperative that is liquidated.

2. The right of cooperative utilization is terminated when a contract is concluded on the temporary use of the land by a Cooperative (paragraph 5).

3. The Cooperative yields its right of cooperative utilization of lands to an owner of the Cooperatively Owned Land who is a Member of the Cooperative, to the extent established in the Bylaws. If the land that falls under the right of cooperative utilization, is to be built on, in accordance with special regulations,[7] the Cooperative will, on request, yield its right to cooperative utilization to an owner of the Cooperatively Owned Land who is a Member of the Cooperative, no later than at the time construction begins.

4. The right of cooperative utilization is also terminated if the Cooperatively Owned Land is returned to an owner who is not a Member of the Cooperative; the Cooperative will return the lands on the written request of the owner. Agricultural lands may only be returned for agricultural purposes, and only after harvesting. All of the Cooperatively Owned Lands must be returned unless the owner and the Cooperative agree otherwise.

5. If the owner requests that his lands be returned according to paragraph 4, and if this is impossible because the lands have been built on, they have permanent crops which grew during the period of entitlement to cooperative utilization, or improvements have been implemented by the Cooperative, or if the lands are inaccessible, the Cooperative must, on the request of the owner, exchange his lands with other suitable lands[8] which are a part of the Cooperative's property, unless there is a financial settlement. If the Cooperative does not own such lands, it is obligated to provide the owner with other suitable land[8] for temporary use, free of charge up to 1 January of the current year; this is to be done at the request of the owner, submitted at least six months before this date. If the Cooperative cannot provide the owner with suitable land, or the owner does not agree to the provision of such land, it is obligated to conclude a contract with the owner on the temporary use of his property against payment; such a contract can be cancelled unilaterally, with a five-year notice, on 31 December of the current year.

6. The Cooperative is obligated to notify the Office of Geodesy and Cartography about the termination of the right of utilization according to paragraphs 3, 4, and 5.

Section 51
Transfer of Buildings

1. An agricultural building or other structure (hereinafter Agricultural Building), which is no longer needed by the Cooperative, can be transferred free of charge to the Member who placed it into the ownership of the Cooperative, or to the owner of the land on which the Agricultural Building was erected. Through the transfer of the Agricultural Building into the ownership of another person, the right of cooperative utilization to the land on which the Agricultural Building was erected is terminated.

2. If improvements were made to the Agricultural Building at the expense of the Cooperative, the acquirer is obligated to compensate the Cooperative with an amount equal to the purposeful and permanent improvement depending on the state at the time the Agricultural Building is transferred. If compensation was provided for an Agricultural Building at the time it was transferred

into the ownership of the Cooperative, the acquirer must return this compensation to the Cooperative.

PART FOUR

Joint Provisions

Section 52
The Contract Between the Cooperative and a Member or Other Citizen

The Cooperative may conclude a contract with its Members or with other citizens on joint production or other agricultural activities which the Cooperative is entitled to perform.

Section 53
Transfer of Property From State Enterprises

The provisions of the State Enterprise Law apply to the transfer of property, rights, and obligations of state enterprises, which were created from former unified agricultural cooperatives, as well as to the transfer of organization units of state enterprises created in this way, to Cooperatives, with the proviso that the property, rights, and obligations with which an organization unit of a state enterprise operates can also be transferred in this way; the consent of the legislative body is not necessary for this transfer, and these measures can be taken even after 31 December 1990.

Section 54
Self-Help Agricultural Cooperatives

1. Citizens who perform agricultural activities may found self-help agricultural Cooperatives in the interests of their operations.

2. The provisions in this law regulating Cooperatively Owned Lands do not apply to such cooperatives nor do the provisions regulating the right of cooperative utilization. Other provisions in this law apply where appropriate.

3. Associations of private farmers, founded according to previous regulations, may be transformed into self-help cooperatives without being liquidated.

Section 55

1. Inasfar as this law establishes the form of the legal procedures pertaining to membership and working relationships, the legal procedures are invalid if this law is not upheld.

2. A foreigner or a stateless person may conclude a contract on the conditions of work with the Cooperative after he has been granted a permit to reside on the territory of the Czech and Slovak Federal Republic, unless special regulations stipulate otherwise.

3. A contract on the conditions of work concluded with a foreigner or a stateless person is terminated:

a) on the date when the cancellation of his permit to reside on the territory of the Czech and Slovak Federal Republic goes into effect in accordance with a legal decision;

b) on the date on which a sentence to expel this person from the territory of the Czech and Slovak Federal Republic goes into force.

Section 56

Cooperatives, which formerly did not have membership shares, may in their Bylaws grant their Members rights connected with membership shares based on Cooperatively Owned Land, as well as on the results of work in the Cooperative.

Section 57
Temporary Provisions

1. Unless otherwise stipulated, the legal relations that came into being before 15 May 1990 are also regulated by the provisions of this law; however, if these legal relations or the rights incurred through them originated before 15 May 1990, they will be assessed according to previous regulations.

2. Unified agricultural Cooperatives which were founded before this law goes into force are Cooperatives according to this law.

3. Provisions in the Cooperative's Bylaws and in further internal cooperative regulations which are contradictory to this law are invalid as of the date when this law goes into force. The Cooperatives must approve new Bylaws before 31 March 1991.

4. Arbitration proceedings in unified agricultural cooperatives, initiated before this law goes into force, will be concluded in accordance with previous legal provisions.

5. A garden that was placed into cooperative ownership according to prior regulations and is not subject to cooperative ownership according to this law will, as of 15 May 1990 be considered not to be cooperatively owned if the Cooperative has the right of cooperative utilization up to that day.

Section 58

Joint enterprises and cooperative associations that were established in accordance with previous legal provisions are joint enterprises and cooperative associations according to special regulations,[5] and must be adapted to conform with these regulations within six months of the date on which this law goes into force.

Section 59

The Cooperative will terminate the membership of a Member who has submitted his resignation from a Cooperative in order to use his land for agricultural purposes, and will return to him the Cooperatively

Owned Lands (Section 50, para. 4) within 14 days after the end of the harvest, so he will be able to execute the fall work in the fields.

Section 60

1. The Czech and Slovak Federal Republic Government will pass a statute to regulate the financial operations of Cooperatives and other agricultural cooperative organizations; the government will also stipulate the principles for the distribution of property and obligations when cooperatives are divided.

2. The Federal Ministry of Food and Agriculture, after consulting with the Ministry of Food and Agriculture of the Czech Republic and the Ministry of Food and Agriculture of the Slovak Republic, and in agreement with the Federal Ministry of Labor and Social Affairs can, through universally binding legal provisions, adapt rules to channel the resources for remuneration and wages in cooperatives and organizations that operate in the agricultural and foodstuff sphere.

Annulment Provisions

Section 61

The following will be annulled:

a) Law No. 90/1988 Sb. [Czechoslovak Collection of Laws] on agricultural cooperatives;

b) Section 3 a), of the Decree of the Federal Ministry of Labor and Social Affairs No. 195/1989 Sb. on security for workers during the implementation of organizational changes and for unemployed citizens.

Validity

Section 62

This Law goes into force on 15 May 1990.

Footnotes

1. Section 24 f) of Law No. [no number, as published] /1990 Sb. which amends and completes the Commercial Code.

2. Sections 24 l) and 24 m) and subsequent Law No. [no number, as published] /1990 Sb. which amends and completes the Commercial Code.

3. Sections 421 and 438 to 449 of the Civil Code.

4. Section 95, para. 1 of the Commercial Code.

5. The Commercial Code. Law No. 121/1962 Sb. on economic arbitration, in the version of subsequent regulations (Section 2a).

6. Section 39, Section 57, para. 2, and Section 66 of Law No. 50/1976 Sb. on land-use planning and the building code (Building Law).

7. Law No. 50/1976 Sb.

8. When the Cooperative transfers land, it proceeds according to the principles established in Sections 17 and 18 of the Decree of the Ministry of Agriculture and Forestry No. 27/1958 U.I.[Central Information] which publishes instructions on the execution of the governmental statute on measures in the sphere of agricultural land improvements.

Law on Relations Between Trade Unions, Employers

90CH0134A Prague PRACE in Czech 25 Apr 90 p 3

[Unattributed article: "Trade Unions and Employers"]

[Text] In the late evening hours of Monday, 23 April 1990, the delegates to the Federal Assembly of the Czech and Slovak Federal Republic discussed and approved a law which modifies some relationships between trade unions and employers. Because of its importance, we have published the full text here.

Section 1

In those cases where the legal regulations establish the authority of the Revolutionary Trade Union Movement, this authority also applies under the conditions set forth below to the trade unions and agencies created on the basis of free trade union associations.

Section 2

1. If several trade unions are active in an employing organization, the employing organization, in cases concerning all or the greater number of employees where the generally binding legal regulations require negotiations or the agreement of the trade unions, must fulfill their obligations to the appropriate governing body of all the participating trade unions unless some other agreement is reached. If the respective bodies of all the participating trade unions do not agree within no less than 15 days after requested, the position of the governing body of the trade union with the greatest number of members in the employing organization will be decisive.

2. The provisions of the first sentence of the previous section are similarly to be utilized in the negotiations for collective contracts with the provision that the appropriate trade union bodies active in the employing organization can represent the employees in the name of the collective and can legally negotiate for all employees only jointly and with mutual consent unless decided otherwise between themselves and with the employing organization.

Section 3

1. If several trade unions are active in an employing organization, the appropriate governing body of the trade union of which an employee is a member will represent him in legal matters concerning employment and similar relationships involving individual employees.

2. In the case stated in section 1, but in legal matters concerning employment and similar relationships involving an individual who is not a member of a trade union, the trade union with the greatest number of members in the employing organization will represent him unless the employee makes other arrangements.

3. If the [local] trade union refuses to give prior agreement to give notice to, or to break off immediately the employment of, a given worker, then the higher governing body of the trade union as stated in the previous section can give its concurrence at the request of the employing organization. If there is no such agency, negotiations with the appropriate body of the trade union is sufficient to meet the above legal requirements.

4. If the [local] trade union does not have a higher trade union body, the agreement of the [local] trade union is sufficient to meet the legal requirements on the employing organization towards the trade unions according to section 3, as contained in paragraph 59 of the labor law.

Section 4

If a separation commission is set up in the organizations (paragraph 207 and following ones of the Labor Code), it will proceed commensurate to Decree No. 42/1975 of the Sbirka on discussing and deciding on employment conflicts in the sense of Decree No. 25/1983 of the Sbirka.

Section 5

Since the law requires that legal regulations be published with the concurrence of the agency of the Revolutionary Trade Union Movement, it is necessary to negotiate them beforehand with the appropriate trade union bodies. The appropriate trade union bodies are the bodies of the trade union alliances and associations which can delegate their authority to a federation or confederation of trade union alliances and associations. The provisions of the first sentence similarly apply in relationship to the appropriate central agencies of cooperatives and social organizations.

Section 6

This law goes into effect on the day it is promulgated.

Employment Change, Retraining Law

90CH0121A Prague PRACE A MAZDA in Czech Feb-Mar 90 pp 37-64

[Decree No. 195/1989 Sb. of the Federal Ministry of Labor and Social affairs, dated 19 December 1989, on providing security for employees in connection with organizational changes and for unemployed citizens]

[Text] In accordance with Section 26, para. 3, Section 123, para. 1 g) and Section 142, para. 3 of the Labor Code No. 65/1965 Sb. [Collection of CSSR Laws], in the version Law No. 188/1988 Sb. (complete version No. 52/1989 Sb.) the Federal Ministry of Labor and Social Affairs, in accord with the Central Council of the Unions and the Association of Cooperative Farmers, stipulates:

PART ONE

General Provisions
The Subject and Scope of the Regulation

Section 1

This Decree regulates:

a) the procedures to be followed by socialist organizations[1] (hereinafter called "organizations") in connection with the implementation of organizational changes or rationalization measures (hereinafter called "organizational changes"), leading to the termination of working relationships through the organization firing employees for reasons stated in Section 46, para. 1, a) to c) of the Labor Code; or through an agreement for the same reasons (hereinafter called "dissociation"); or if the same reasons lead to a different type of work than that agreed in the work contract (hereinafter called "change in type of work"); and the procedures to be followed to ensure further useful employment and security for these workers;

b) conditions, procedures, and obligations of the organizations in regard to changes in the qualifications of the employees in connection with organizational changes (hereinafter called "retraining");

c) the security of unemployed citizens.

To Section 1

The term "organizational changes" is to be understood as the reasons stipulated in Section 46, para. 1 a) to c) of the Labor Code. They are the following, interrelated reasons:

—the organization is being discontinued, liquidated, moved, relocated, dissolved, transferred to a different organization, or is merging with, or being integrated into, another organization;

—the organization is changing its type of work (production activity), technical equipment, is lowering the status of its employees to increase the efficiency of work, or other organizational changes are being implemented, resulting in the elimination of the job, and thus the employee becomes redundant in his present job.

When implementing organizational changes, the organization may:

1. transfer the employee to a different job which must be a permanent change of type of work, requiring a change in the type of work agreed in the work contract;

2. fire the employee, because it is no longer able to employ him at the location that was stipulated as the workplace according to the work contract, nor where his

residence is located and it is unable to do so even after prior adjustment; or the employee is unwilling to transfer to different suitable work, offered to him by the organization at the location that was agreed as the workplace or where his residence is located, or to undergo prior preparation for this other type of work. Instead of firing him, the organization may terminate the working relationship with the employee through an agreement for the stated reasons (i.e., organizational reasons).

In these cases, the employee becomes entitled to security in the form of a wage settlement which compensates for the disadvantages linked with leaving the job.

When there is a change in the agreed work contract, the organization is obligated to state in the agreement terminating the working relationship according to Section 43 of the Labor Code, or if the employee is fired, that the reasons for the termination of employment are organizational changes, stated in Section 46, para. 1, a to c of the Labor Code, otherwise that employee cannot furnish proof of his entitlement to a wage settlement.

Section 2

The regulation of the procedures to be followed by organizations stated in the second part of this Decree also relates to women who are fired from their jobs by the organization or whose employment is terminated through an agreement due to the enforcement of the prohibition of certain types of work and workplaces for women,[2] or who are forced to change the type of work for the latter reasons, unless it is a temporary transfer to other work because of pregnancy or because the woman is the mother of a child under nine months of age; in this case she is entitled to benefits according to the legal regulations of health insurance.[3]

To Section 2

A woman who is laid off by an organization due to the enforcement of the prohibition of work and workplaces for women, because it is not possible to transfer her to other suitable job within the organization, is entitled to security in the form of a wage settlement according to this Decree and she has this entitlement even though the layoff is not caused by organizational changes according to Section 46, para. 1, a to c of the Labor Code.

However, when a pregnant woman or a mother during the first nine months after childbirth is prohibited from working, she is frequently temporarily transferred to a different, more suitable job, where she receives the same income as in her previous job. If she is not transferred to such a job or, through no fault of her own, she receives a lower income than in her previous job, she is entitled to an equalization payment from the health insurance resources and not to a wage settlement according to this Decree.

Section 3

The regulation of the procedures to be followed by organizations stated in Article Two of this Decree does not apply to:

a) the layoff and change in type of work of a member of the unified agricultural cooperatives in connection with organizational changes implemented within these cooperatives;[4]

b) employees who are not laid off and whose type of work does not change, but whose right and obligations according to the Labor Code are transferred to a different organization[5] during the process of organizational changes.

To Section 3

The Decree regulates the procedures and obligations during implementation of organizational changes by organizations where the relations according to the Labor Code are regulated by the Labor Code. The Decree does not regulate the procedures when implementing organizational changes in unified agricultural cooperatives. The procedures and obligations when implementing organizational changes in unified agricultural cooperatives are stipulated by the Agricultural Cooperative Law No. 90/1988 Sb. If organizational changes are made in a unified agricultural cooperative, the cooperative is obligated to offer the member different suitable work. If the member is unwilling to transfer to this work, the committee has the right to unilaterally change the type of work, and/or the location of the workplace. The member is then obligated to carry out the work according to the decision of the cooperative. During a time limit of up to one month from the day of the change in type of work or location of workplace, the member may immediately withdraw from the cooperative. In this case he is not entitled to any security.

The entitlement to security during the implementation of such organizational changes as mergers, integration, breakup of the organization will not arise if the type of work to be performed by the employee according to the work contract is not changed, or if he is not fired for the reasons stated in Section 46, para. 1, a to c of the Labor Code.

Section 4

The regulation of the procedures to be followed by organizations stated in Articles 2 and 3 of this Decree do not apply to:

a) the layoff and changes in type of work of employees who perform the work in a subsidiary capacity within the organization, or on the basis of agreements on work performed outside the working relationship;

b) members of the Armed Forces and Armed Corps on active service.

To Section 4

The Decree regulates the security entitlement of employees who are affected by an implemented organizational change, or who are undergoing retraining in connection with an implemented organizational change. However, the employees must be employed by the organization in a primary capacity. In other words, it does not apply to employees who are doing work for the organization in a secondary capacity, or on the basis of agreements on work performed outside the working relationship.

Members of the Armed Forces and Armed Corps on active service, receive security when they leave active service through a service payment (Section 33 of Law No. 76/1959 Sb. in the version of subsequent regulations, Section 110 of Law No. 100/1970 Sb. in the version of subsequent regulations). Therefore this Decree does not regulate their entitlement to security.

Section 5

The procedures to be followed in organizations where special regulations[6] of the Labor Code regulate relations according to the Labor Code or other analogous working relationships, are comparable to this Decree unless this Decree or these special regulations state otherwise.

To Section 5

The Decree regulates the procedures and obligations of organizations when implementing organizational changes, where the relations according to the Labor Code are regulated by the Labor Code. These are primarily state enterprises, state budgetary and benefit organizations, social organizations (i.e., political parties, union organs, interest groups), as well as organizations with international elements and enterprises with property participation by foreigners in the CSSR. Further, the Decree relates to organizations where the Labor Code regulates relations according to the Labor Code and other analogous working relationships as, for example, cooperative organizations according to Law No. 94/1988 Sb. on residential, consumer, and production cooperative systems, and others.

The Decree also regulates the procedures and obligations of the unified agricultural cooperative when implementing organizational changes if, in exceptional cases, a citizen is employed in it and is directly affected by the organizational change.

Explanation of Some Terms

Section 6
Employee, Working Relationship, and Employment

When enforcing this Decree according to Section 5, the following is understood for the purpose of this Decree:

a) an employee also means a citizen who has a relationship according to the Labor Code, or analogous working relationship, with the organization other than a working relationship;

b) a working relationship also means other relationships according to the Labor Code, or analogous working relationships, with the organization;

c) employment is a working relationship, other relationships according to the Labor Code, or an analogous working relationship with an organization, and for the purpose of unemployment security for the citizen it also means a service relationship[7] as well as the provision of services on the basis of a permit according to special regulations[8] from the appropriate organ.

To Section 6

For the purposes of this Decree, other working relationships, analogous to the working relationship and job performed in a working relationship, are understood, for example, as the relations ensuing from official functions, relations of members of Kraj associations of lawyers, relations of members of crews of Czechoslovak naval vessels, etc.

Section 7
Suitable Employment

For the purposes of the Decree, suitable employment is understood as employment appropriate for the employee's or citizen's state of health and commensurate to his abilities and qualifications.

To Section 7

Suitable employment is described as employment that respects both the interests of the citizen himself and the interests of society. Therefore it is necessary to take into consideration the state of health, the abilities and the qualifications of the citizen, and to understand suitable employment as employment that attempts to arrive at an optimal solution under the individual circumstances as well as a combination of all of them. When assessing the suitableness of employment, the main emphasis is laid on employment appropriate to the citizen's state of health, so that its performance will not cause injury to the citizen's state of health, or cause any deterioration of it in any way. A second point to consider is the suitableness of the employment from the point of view of the employee's abilities, i.e., whether the employment is commensurate to the level of his spiritual maturity, physical abilities and skills, as well as other characteristics of the citizen that have a direct relation to the demands made by certain types of employment on the employee. The third point is that the employment should correspond to the qualifications of the employee. However, one must bear in mind that experience has shown that organizations are often not truly able to provide the employee with a job corresponding to his qualifications. Therefore, suitable employment should first be interpreted as employment answering the qualifications of

the employee, but if there is no job available corresponding to the qualifications and other above-mentioned points, it should be interpreted as employment corresponding as closely as possible to the qualifications of the employee.

The Decree augments the meaning and explanation of the term suitable employment, since previous legal regulations stated that suitable employment is to be understood as employment that is commensurate to the state of health and abilities and, if possible, the qualifications of the employee. In the past, it became the practice to offer jobs, for which no special qualifications were necessary, if no job was available that closely corresponded to the qualifications of the employee. Thus the term qualifications should include not only a certain level of education but also the other specialized knowledge of the employee and practical skills attained by him during his previous employment.

Section 8
Retraining

For the purposes of this Decree, retraining is considered to be a change in the employee's previous qualifications that must be attained through the acquisition of additional knowledge and abilities by theoretical and practical preparation that requires at least 150 hours of instruction.

To Section 8

Retraining is to be understood as a change in qualifications, consistent with the needs of the organization, to which the employee agrees. As a rule, this will mean broadening the original qualifications or acquiring additional qualifications. Usually, retraining will be necessary due to structural changes in the national economy, when modernizing production or work activity, in regard to techonologic changes, when introducing scientific and technical advances, as a result of which it is no longer possible to employ the employee in the job for which he was previously qualified.

However, the purpose of retraining is not to attain a higher level of qualification than the employee had before; it is basically a matter of retaining the previous level. Broadening of qualifications within the framework of retraining is to be understood as supplementing previous qualifications with additional necessary information, as a rule so that the employee can transfer to a type of work activity closely related to what he had done before. The demands necessary to get the required knowledge and skills will be lower than when acquiring new qualifications and this will also be reflected in the shorter time needed for retraining. On the other hand, if a substantial change in qualifications is necessary, the employee will have to acquire totally new knowledge and/or skills. This will substantially extend the time needed for retraining and an appropriate form of preparation will be used.

Since it is necessary to distinguish less substantial from more substantial changes in qualifications that involve retraining, the length of time needed to prepare for the new type of work will be the deciding criterium. Thus the term retraining will be used when the preparation takes more than 150 hours. A less substantial change in qualifications, requiring less than 150 hours of preparation will not be considered to be retraining and will be dealt with through on-the-job teaching and training.

Section 9
The Citizen

For the purposes of this Decree the term citizen is understood as a citizen of the Czechoslovak Socialist Republic, a citizen of a foreign state, or an individual without any citizenship, who is qualified according to the Labor Code[9] and, due to his state of health, is able to work, and is a ermanent resident of the Czechoslovak Socialist Republic.

To Section 9

In principle, the Decree regulates the entitlement to security in connection with organizational changes, or when unemployed, only of Czechoslovak citizens and aliens who are permanent residents of the CSSR. It does not apply to foreigners who have lived in the CSSR for a long time but do not intend to settle permanently in the CSSR. Primarily it applies to workers on contract, apprentices, probationers, foreign workers (citizens of the PLR [Polish People's Republic], the VSR [Vietnamese Socialist Republic], Cuba, and other people working in the CSSR on the basis of international agreements).

The Decree also applies to Czechoslovak citizens, who lived abroad for some time before returning to the CSSR, and retained their Czechoslovak citizenship for that time. Further, it also applies to Czechoslovak citizens, who hold Czechoslovak emigration passports. The latter receive Czechoslovak citizen papers on their return to the CSSR.

PART TWO

Security for Employees in Connection With Organizational Changes

Section 10
Further Useful Employment of Workers

1. The organization ensures for employees, who can no longer be employed according to their work contract due to organizational changes, further suitable and useful employment, primarily in other locations belonging to the organization, as long as the type of organizational change permits this; in order to do this, it will suggest a change in the contractual working conditions[10] and/or retraining that will be necessary for their further useful employment in the organization.

2. Employees, for whom the organization cannot provide further useful and suitable employment according to

paragraph 1, and who are laid off (hereinafter called "laid-off employees" and "laying-off organization") will be helped by the laying-off organization to find suitable employment in other organizations. In so doing, the laying-off organization will actively cooperate with organizations that agree to hire the laid-off employees, and if the need arises, it ensures this cooperation through the participation of higher level agencies (agencies of economic management).[11]

3. The laying-off organization continuously informs the higher level agency (the agency of economic management) and the Okres National Committee, in whose obvod it is domiciled, of the numbers and qualifications of the employees for whom no further suitable employment has been ensured, and according to their advice it cooperates with them in setting up a program to place these laid-off employees, if such a program is necessary, and then it will proceed according to this program.

4. When organizational changes are implemented on the basis of a program of structural changes in the national economy that have been sanctioned by the appropriate government, and as a consequence employees are laid off, if the appropriate government has set special provisions for further useful employment and placement of laid-off employees, one will proceed according to these special provisions.

To Section 10

If an organization, as a result of organizational changes, can no longer employ the employee in his present job, it is in its interest to offer him another suitable job at one of its other locations. This has the advantage that the employee knows the organization, and vice versa, and that the employee is also familiar with the practices and running of the organization, thus the organization retains a trained employee, on whose work it can rely. Depending on the circumstances, the organization and employee will agree on the change in the agreed work conditions, and will change the work contract: Either there will be a change in the location of the workplace, a change in the classification of the function, or both.

If it is a matter of transferring to new job, the necessity for the employee to undergo a retraining course in order to acquire additional knowledge and work skills must be considered. In this case the organization and employee will sign an agreement on retraining.

If the organization is unable to find work for an employee affected by the organizational changes at any of its other locations, or the employee is unwilling to transfer to other suitable work, or he is unwilling to take part in retraining, the organization has no choice but to lay him off. In this case, the organization is obligated to actively help him find new suitable employment in another organization. This task primarily falls to employees in the personnel department of the organization. Although it is to be expected that the laid-off employee will actively look for a new job since it is in his own interests, one cannot rely exclusively on his doing so, and therefore employees in the personnel department must also be personally involved.

If a pregnant employee is laid off, a woman on maternity leave, a single worker—male or female—with altered work abilities who has no security through a pension, the laying-off organization has the obligation to ensure suitable work for him. New employment is ensured through the signing of a work contract with another organization.

The organization's obligation to actively help an employee find new suitable employment and/or ensure it, ceases if the employee states that he is not interested in such help or is not willing to enter new suitable employment that the organization offered or ensured him.

When looking for and ensuring jobs for laid-off employees it is to the organization's advantage to inform its management and request its help in negotiating with other organizations. It is also highly advisable to inform the appropriate local Okres National Committee (the Department of the Work Force) about the layoff, and to provide it with necessary data about the laid-off employees, such as the total number, age, qualifications and specializations, wage level, etc., particularly of those employees who have not succeeded in obtaining suitable jobs. The national committees compile lists of all vacant jobs as well as the organizations' requirements in filling them.

If the organizational changes are wide ranging, in connection with changes in the structure of the national economy, the appropriate republic or federal government will put in place a program of provisions for the speedier placement of a larger number of laid-off employees that exceeds the capabilities not only of the laying-off organizations and national committees but also of the superior agencies. This program will include the number of placements, time limits, the possibility of placement within specific fields or in other fields, and/or the necessity to create further conditions, e.g., a retraining program for employees, apartment construction, creation of further jobs, development of products and services in extant operations or their expansion, the necessary reimbursement of expenses, etc.

Section 11
Advisory Obligation of the Organization

1. The laying-off organization has the obligation to advise the laid-off employees of the reasons for the layoff, and of the kind of help they will be provided with in securing new suitable employment, including possible retraining; this to be done not less than three months before they will be given notice, or an agreement on the termination of the working relationship will be signed on the basis of the decision on organizational changes.[12]

2. If the laid-off worker is interested in transferring to a new job before the date on which the working relationship is to be terminated through firing or through the signed agreement on the termination of the working

relationship, the laying-off organization is obligated to comply with his request unless critical operational reasons prevent it. The organization will state the reason for the termination of the working relationship in the agreement on terminating the working relationship.

To Section 11

Although it is possible that the decision to implement organizational changes may unexpectedly come overnight, as a rule, it is more probable that an organizational change will be prepared systematically, that it will be the result of analyses and critical assessment of the given situation within the organization. Therefore it will more or less be prepared with much deliberation and planning, and therefore the organization should have considered all steps that it must take to ensure its smooth course. Great attention must be paid by the organization to the problem of the people, the employees. When deciding on the organizational change, the organization must immediately consider how it can further utilize the employees who will directly be affected by the organizational change, whether it can continue to employ them, whether it will have to retrain them, how many will retire, and how many will have to be placed in other organizations, into which ones, and then to contact these organizations and discuss with them all necessary provisions.

In practice it has proved expedient to advise the employee, who is directly affected by the organizational changes, of the reasons for the layoff and of the help that will be given him by the laying-off organization and the national committee in finding further useful employment. It is stipulated that the organizations must discuss these serious problems with the employee with sufficient advance notice, at least three months before he is given notice or the working relationship is terminated through an agreement, or before he is transferred to a different job within the organization, so that the employee will have sufficient time to come to terms with the situation and himself help in resolving it. The three-month period is in essence a procedural time limit. One cannot infer that the firing is invalid because the advance notice was not complied with; however, if it is not observed, a fine according to Section 270a and 270b of the Labor Code can be exacted. The union may come to the defense of its members and not agree with the firing, if the organization did not observe the three-month advance notice in advising the employee of the organizational change.

It is not necessary to observe this three-month advance notice when a pregnant woman is being laid off if, in a doctor's opinion, her previous employment would threaten her pregnancy.

One of the reasons why an organization should advise an employee of the reasons for his layoff with sufficient notice, is so that he can actively contribute to finding further useful employment. If the employee is interested in changing to a different job before his working relationship with the laying-off organization is terminated, the latter is obligated to comply with his wish, unless critical operational reasons prevent this. But the refusal to allow him to leave earlier should be an exception. The union should verify whether the refusal to allow the employee to leave early is due to critical operational reasons or is merely the unwillingness of the organization to lay him off earlier.

Security for the Employee

Section 12

1. When organizational changes are being implemented, laid-off employees, who have to change their type of work, will be provided with security in the form of a wage settlement.

2. The wage settlement is determined from the difference between the final average gross earnings of the employee in the laying-off organization (before the change in the type of work), according to Labor Code regulations and the determination and utilization of average earnings,[13] and gross earnings attained by the employee in the new organization (after the change in the type of work).

3. Wage (income) categories that are not included in the gross earnings of an employee when determining the average earnings for the purposes of the Labor Code are also not included in the gross earnings attained; however, wage compensation is included. In the case of employees, who are provided with some portion of their wages, for periods not exceeding one month but less than one year, as a part of their remuneration, these portions will be included in the gross attained earnings in the prorated monthly amount. These employees will be provided with a wage settlement in advance,[14] with the proviso that after the relevant portions of wages to be paid have been accounted, a prorated amount for one month will be determined, and the wage settlement will be determined. The organization will inform the employee of the accounting period and the procedure for determining the wage settlement.

4. An employee who, through his own fault, at the end of the set probation time has not attained the average performance of other employees doing the same work, will be provided with a wage settlement calculated from the gross earnings attained by these workers during the same period.

5. In the case of an employee who is remunerated for work in a unified agricultural cooperative by means that are not subject to income tax, his net income will be used as the basis when determining the wage settlement according to paragraphs 2 to 4.

To Section 12

A worker, who is directly affected by organizational changes, is entitled to security. This security is both stimulatory and compensatory in nature because, basically, it should provide an incentive for him to secure his own transfer from his previous job to a new job, and it

should provide compensation for the disadvantages linked to this transfer (change in workplace, change in operational activity, possibly qualifications, lower starting pay, etc.).

The wage settlement is calculated as the difference between "the final average gross earnings in the laying-off organization" and "the attained gross earnings in the new workplace."

In calculating the average gross earnings the procedure is according to FMPSV Decree No. 235/1988 Sb. on the determination and utilization of average earnings.

For the purpose of calculating the wage settlement, wage compensation is included in the gross earnings in the new workplace, corresponding to the adjustment of the calculation of the wage settlement for the period when the employee is entitled to work compensation (Section 14 of the Decree).

In the case of employees who are provided with portions of their wages for periods exceeding one month (for example quarterly or semiannual bonuses) in their new workplace, these wage portions will be included in their gross attained earnings in the prorated amount, so that these employees will not be unduly disadvantaged compared to employees who regularly receive above-tariff wage portions on a monthly basis.

When calculating the wage settlement, consideration must be given to whether the difference between the gross earnings at the new workplace and the average gross earnings at the original workplace is caused by lower work output by the employee who is being provided with the wage settlement. If it is determined that the employee, through his own fault, is not performing work of the quality he should since he was already fully trained, and the difference between the average gross earnings at the original workplace and the gross earnings at the new workplace is thus higher than it should be if he properly performed the work assigned to him, he will still receive a wage settlement, but it will be calculated on the basis of gross earnings attained by other employees performing the same work.

When determining the wage settlement, it is necessary always to use comparable data. If, before being laid off, the employee worked less hours per week than is standard, but works the standard number of hours in his new job (or vice versa), the earnings corresponding to an equal number of hours are to be compared. There is an analogous situation in the case of employees whose wages are not subject to income tax (e.g., in unified agricultural cooperatives)—in this case, the wage settlement is determined from the net income and not the gross income.

Section 13

1. If a laid-off employee, after terminating his working relationship, is employed in another organization without undue delay, he is entitled to a wage settlement from the commencement of his new job as follows:

a) in the full amount of the difference as determined according to Section 12 for three months;

b) in an amount equal to 80 percent of this difference for the next three months;

c) in an amount equal to 50 percent of this difference, if it is in connection with organizational changes according to Section 10, Para. 4 for a further three months.

2. If, after being employed in a new organization, the laid-off employee must perform work requiring retraining, he is entitled to a wage settlement during the time of retraining in the full amount of the difference between the earnings according to Section 12; However, the period is not to exceed twelve months. If retraining is completed before the expiration of the period of entitlement to the wage settlement according to paragraph 1, the wage settlement will be provided for the remaining period stipulated in paragraph 1 after the completion of retraining.

3. If, during the period of entitlement to the wage settlement, the working relationship in the new organization entered by the laid-off employee is terminated through an agreement, or firing by the organization for reasons stated in Section 46, para. 1, d of the Labor Code, or notice is given by the employee, the employee immediately terminates the working relationship, or the working relationship is terminated during the probation period by the employee or the organization, and this employee then enters employment in another organization without undue delay, entitlement to the wage settlement is for the total period set according to paragraph 1, and/or paragraph 2, if,,.

4. If there is a change in type of work (Section 1, a), an employee is entitled to a wage settlement for the period and in the amount given in paragraph 1, and/or paragraph 2 from the day when the change in type of work occurred. If this employee is laid off as a result of organizational changes during the period when he is entitled to a wage settlement, he is entitled to a wage settlement for the remainder of the period from the moment he enters employment in another organization, as long as he enters employment without undue delay.

To Section 13

The wage settlement is implemented in such a way as to ensure that a laid-off employee will be employed in another organization without undue delay, and thus the reintegration of laid-off workers into the work arena will be achieved in the shortest time. The term "without undue delay" is not defined more closely, since there are many situations that might arise when judging it: for example, the situations are different in the case of an employee who is offered several jobs by the organization and takes several days to decide on the specific job, than in the case of an employee who is only offered one new

job. In essence, "without undue delay" means that an employee is hired immediately after terminating his previous working relationship. The Decree does not stipulate who determines whether the employee was hired without undue delay. However, since the organization that hired him will provide the wage settlement, it must be assumed that this organization will determine whether the laid-off worker has fulfilled his obligation. If there is a disagreement about the justice of the determination, as to whether the laid-off worker was hired without undue delay, the employee has the right to appeal to the arbitration commission.

An employee who undergoes retraining is guaranteed security for the entire set time, even if the retraining is shorter, so that he will not be disadvantaged in comparison to employees who do not have to be retrained.

Example: An employee was laid off as the result of organizational changes, and therefore he is entitled to a wage settlement for six months. After entering the new employment, the employee undergoes retraining for a period of five months. His wage settlement is as follows:

During the first to fifth months he is entitled to the full amount of the wage settlement (i.e., 100 percent) of the difference between the average gross earnings determined in the laying-off organization and the gross earnings attained in the new organization. During the sixth month he is entitled to a wage settlement in an amount equal to 80 percent of this difference.

An employee is entitled to a wage settlement for the entire set period, even if he changes his employment during the time he is receiving it. The reasons for the change in employment are relatively wide ranging. However, for the entitlement to remain valid, the reason for the change in employment should not be: because the organization terminated the working relationship with the employee according to Section 53 of the Labor Code, or fired him according to Section 46, para. 1, e and f of the Labor Code, because the employee did not fulfill the requirements set by legal regulations for the performance of the agreed work, or because he seriously violated work discipline, etc.

The Decree does not specifically deal with the situation of an employee who receives a wage settlement after entering new employment and is again laid off as a result of organizational changes during the period time he is receiving it. This additional layoff from employment should be considered as a new case, in which a new entitlement to a wage settlement arises, and the employee loses the entitlement to the provision of the previous wage settlement.

Section 14

The wage settlement will be provided even during a period for which workers compensation is provided or benefits from health insurance replace lost wages (income). During the period when health benefits are being paid, the wage settlement is determined from the difference between the benefits that would have been provided to the employee before he was laid off (before the change in type of work) according to legal regulations on health benefits, and the benefits he is entitled to after being laid off (after the change in type of work).

To Section 14

A wage settlement is provided even for those days for which an employee in the new organization receives compensation for wages or benefits from health insurance that replace wages. The wage settlement for the period when benefits from health insurance replace wages are determined in an amount equal to the difference between the benefits that the employee would have received from the previous organization and the benefits granted in the new organization.

Section 15

There is no entitlement to a wage settlement for those days when the employee missed a shift (a working day) without excuse; shorter periods of individual shifts that were missed without excuse are deducted.

To Section 15

The wage settlement is implemented in such a way that the laid-off employee will show true interest in learning the job at his new workplace and will utilize the working time. However, there will be no entitlement to a wage settlement for a month in which an employee missed a shift or working day without excuse, and shorter absences without excuse will be deducted from that month.

The organization which the laid-off worker entered should not be indifferent to the work performance and work morale of the new employee, even if it is the laying-off organization that pays the wage settlement and not the new one. After all, if it tolerates absences during the period of the wage settlement, it will have no guarantee that the employee will improve after he stops receiving it.

Section 16

The wage settlement is paid by the organization employing the employee during the period of the wage settlement from its wage resources and at the time stipulated for payment. A wage settlement that is paid to a laid-off employee by the organization whose employment he entered (Section 13, paras. 1 and 3., will be reimbursed by the laying-off organization after termination of the period of entitlement to the wage settlement unless the organizations have agreed on a different time for the reimbursement.

To Section 16

The wage settlement will be provided to the employee by the organization that accepted him into its employ from its personnel expenses (Section 2, para. 3 c) of the FMPSV Decree on regulating wage resources No. 145/

1989 Sb.). The amount of wage settlement provided will be reimbursed to this organization by the laying-off organization from personnel expenses. The organizations will agree on the time of reimbursement, as a rule the reimbursement will be executed after the end of the period of entitlement to the wage settlement.

Section 17

If, according to the wage regulations in force in the organization whose employ the laid-off employee entered, his wage claims or other benefits to be paid him are dependent on a continuous working relationship, this condition is considered as having been fulfilled at the time of entry into employment without undue delay. This will be noted in the confirmation of employment.

To Section 17

This provision applies to, for example, FMPSV Decree No. 159/1970 Sb. on the provision of bonuses on significant work or other important anniversaries. The organization may only provide this bonus if the employee has worked in the organization for at least five years. Transfer without undue delay to another organization as a result of his being laid off due to organizational changes is, according to this Decree, considered as an uninterrupted continuation of the working relationship, so that the length of the working relationship of the employee in the laying-off organization is added to the duration of the working relationship in the new organization.

PART THREE

Retraining of Employees

Section 18
Agreement on Retraining

1. The organization will discuss the possibility of an employee's continuing employment, performing work other than what he is doing now or has been doing, and the manner of and procedures involved in retraining for other work with the employee who is to be retrained in connection with organizational changes. In connection with retraining, it will sign a written agreement on retraining with the employee, in which it will stipulate, in particular, what work the employee will be retrained for and the duration of retraining, the manner in which the retraining will be done, and the manner of verification of the acquired knowledge and skills, as well as the extent of security in connection with retraining.

2. When signing the agreement on retraining, the organization must take into account the present qualifications of the employee and the expectations and/or requirements, necessary to perform the work for which the employee is to be retrained. Also, it must bear in mind that, as far as possible, the employee should be retrained for work related to what he is doing at present or had been doing previously, and that, as a rule, the retraining should take place during the period when the employee is entitled to a wage settlement (Section 13).

To Section 18

For the retraining to be efficient and for it to permit the immediate maximally effective performance of the employee as far as possible, the way the retraining will be accomplished and what it will involve will always be determined by the organization that will employ the employee after retraining. It will sign a written agreement with the employee about retraining. Above all, it is necessary to state in the agreement the name of the field or type of work for which the employee will be prepared, how the retraining will be carried out, how long it will last, by whom and where it will be executed, how it will be concluded, into what category the employee will be placed after its conclusion, how he will be recompensed during the period of retraining, and what other support and benefits he will receive during retraining; further items connected with retraining may also be stated in the agreement. On his part, the employee will pledge that he will fulfill the requirements connected with his retraining in the agreement. If the retraining will lead to an increase of the employee's qualifications, the organization may simultaneously sign an agreement with him according to Section 143 of the Labor Code.

The agreement will state that the employee is willing to undergo retraining and that he is entitled it, and this will be binding for the organization. If the agreement is not fulfilled on the part of the organization, the employee may demand that it be fulfilled. If the employee does not fulfill his obligations ensuing from the agreement, the organization may stop his retraining.

When deciding on the manner and course of retraining, the organization will ascertain and assess the level of the employee's present qualifications, i.e., the level of education attained, work experience and individual abilities, and will determine how the retraining will proceed according to them. It is necessary to bear in mind that only employees with a certain level of qualifications and experience in life and work will be retrained. Therefore it is necessary to base the decision on documents showing the level of education he attained, the course of his employment, the evaluation of his work, and an interview with the employee.

To carry out the retraining, it is important to determine what it involves, i.e., the type, amount, and quality of the required new knowledge, and/or skills must be defined. Additional requirements involved in retraining must also be mentioned, that means, the form of its execution, the duration, and the way it will be concluded. The organization for which the employee is being prepared will be the primary decision maker on the manner in which the retraining will be accomplished, since it will be utilizing the newly acquired qualifications.

The Execution of Retraining

Section 19

1. Depending on what the preparation for other work involves and its extent, the retraining will usually be executed in the teaching and educational facilities of the organization. After it has been completed, the organization will verify the knowledge and skills attained by the employee and will furnish him with proof of retraining. If retraining requires acquiring education at a school, it will be accomplished at the appropriate school, and/or in cooperation with it.

2. Retraining executed in the teaching and educational facilities of the organization will be ensured by the organization to which the employee has a working relationship, in its own facilities and/or in the facilities of another organization.

To Section 19

All existing forms of education will be utilized for retraining. The organization for which the employee is being prepared will choose the most advantageous and most efficient form. The subjects involved in retraining will indicate whether preparation executed at the workplace will be sufficient, or whether the employee will participate in specialized training in the organization or appropriate educational facilities, or whether additional studies will be necessary concurrently with the job.

Primarily, the system of educating employees within the organization and setting up courses and training to provide theoretical, and/or practical preparation will be utilized, both for workers and for employees in technical and economy fields. The practical preparation to acquire the needed skills will also take place within the educational system in the organization's workplaces, or in other appropriate training facilities.

Furthermore it will be possible to utilize courses and training organized in the extracurricular teaching and education system. Above all these are activities organized by branches of the CSVTS [Czechoslovak Scientific and Technological Society], the Socialist Academy, Houses of Technology, and similar institutions.

Some work will require preparation equivalent to study courses at a state school, usually taken concurrently with the job. When school-type studies are necessary for workmen, the form utilized will be, for example, supplementary study of instructional or educational fields in the form of studies taken concurrently with the job, or of combination studies, or possibly the study of individual instructional subjects.

Post-high school or postuniversity graduation retraining studies will be utilized in the case of employees in technical or economic fields.

The competence of the employee to perform the given type of work for which he was prepared will be verified at the completion of retraining, depending on the type of preparation used. The verification will either be done directly by the organization or the educational facilities, or the appropriate school, depending on the type of preparation. A document will be issued, confirming that retraining was completed, and listing the acquired qualifications. The document will usually include the name of the profession for which the employee was retrained; the manner in which the retraining was executed; the extent of the retraining, expressed in the number of hours taken; the manner of verification of the acquired knowledge and skills; and the result of the verification.

Section 20

If the organization uses the teaching and education facilities of another organization for retraining according to Section 19, para. 2, it will sign a written agreement to this effect with the other organization; the agreement will particularly stipulate how the retraining is to be accomplished, what it involves, the extent of the theoretical and practical preparation, the time of commencement and the duration of retraining, the manner of verification of the acquired knowledge and skills of the employee, and the time and manner of reimbursement of expenses connected with the retraining. This agreement will be based on the retraining agreement signed with the employee.

To Section 20

Retraining may be carried out in various ways. Most often the employee will be retrained directly in the organization, with which he has a working relationship. But for various reasons it may be more convenient to carry out retraining in another organization or educational facility. In such a case the organization with which the employee has a working relationship must come to an agreement with the other on the conditions of execution of retraining, and must sign an agreement to that effect.

The agreement between organizations on the execution of retraining will contain the following: the name, or list, of those who will be retrained, the field or operational activity for which the preparation is designed, an outline of the theoretical, and/or practical preparation, where and by whom the retraining will be executed, the duration of retraining, the manner of supervision or control by the employing organization, the manner in which retraining will be concluded, and the verification of the acquired knowledge and/or skills, a breakdown of the expenses that will be reimbursed, the manner of reimbursement, and/or further items that should be included in the agreement.

Section 21

Retraining is to be carried out during working hours; only when necessary due to the manner in which it is provided, for example, in a special school, is it to be outside working hours. According to Section 126, para. 2 of the Labor Code, participation in retraining during working hours hinders the employee in performing his

job; therefore, the organization will provide the employee with wage compensation for this time in the amount of his average income. The organization is obligated to create suitable conditions to provide high-quality retraining for the employee and its timely conclusion, as well as suitable adjustment of his working conditions.

To Section 21

During the retraining period, the employee's main task and obligation will be to acquire the knowledge and skills necessary for him to perform the new type of work. If the retraining takes place on the job, it will be accomplished during normal working hours. If the method of retraining demands time outside daily working hours, the employee's working hours will be suitably adjusted, according to the organization's conditions.

If it is necessary to participate in training or studies, the working hours will be adjusted to the activities of the educational facilities and the employee will be excused from work for the time that the retraining extends into working hours.

During the retraining period it is necessary to ensure that the employee performs his work according to the signed work contract and that his preparation is not impeded. In the interests of both the organization and the employee the duration of retraining should not be extended unnecessarily, though, naturally, it must achieve the required results.

Therefore, the organization should stimulate the employee so that he will himself be interested in the retraining being as short and effective as possible. For this purpose, the organization may use material, work, and moral incentives for the employee, according to its own resources.

Section 22

Expenses connected with retraining are reimbursed by the organization in which the employee will be performing the work for which he is being retrained. If a laid-off employee must be retrained because his acceptance by the new organization was based on an agreement with the laying-off organization, that included the proviso that he would have to be retrained for further useful employment, the organizations may come to an agreement about reimbursement of expenses connected with the retraining of these laid-off employees; this does not affect the reimbursement of the wage settlement according to Section 16.

To Section 22

According to the Labor Code, the organization must make sure its employees have the necessary qualifications and is obligated to ensure their retraining as a consequence of a change in production, of modernizing the production base, of a change in technology, and of introducing scientific and technical advances. In these cases the organization has the obligation to reimburse all expenses connected with retraining. The expenses will always be reimbursed by the organization for which the employee is being retrained, the one that will be making use of his new qualifications. Expenses for the wages of retrained employees will be reimbursed from the wage fund; in the case of economic organizations, expenses arising from the specialized preparation of the employee through practical training or studies will be reimbursed from their own activity from an item earmarked for financing employees' education, and in the case of budgetary organizations, it will come from the budget.

If there are substantial structural changes in the national economy, and an organization lays off larger numbers of employees, the latter organization may come to an agreement with the organization that will be employing the laid-off employees, to partially or totally reimburse the retraining expenses, so as to facilitate the transfer and placement of the laid-off employees, and to make sure the new organization will be willing to accept them.

PART FOUR

Unemployment Benefits for Citizens

Section 23

A citizen who applies for employment[15] to the Okres National Committee, in whose Obvod he has his permanent residence, for employment (hereinafter called "citizen" and "national committee"), and for whom the national committee is unable to find suitable employment, becomes entitled to security in the form of monetary compensation (hereinafter called "compensation") while he is unemployed, as soon as he has fulfilled the conditions stated in the subsequent provisions.

To Section 23

The constitution of the CSSR guarantees all Czechoslovak citizens the right to work. The citizens realize this right by entering into a working or analogous relationship with an organization and being employed within this organization. But sometimes a citizen is unable to find employment on his own. In this case the national committee is called upon to provide information, advisory and mediatory services, and furnish help to the citizen in finding suitable employment. For this purpose, the Okres National Committees' Departments of the Labor Force maintain lists of vacant jobs in the obvod under their jurisdiction, including the requirements for the jobs (i.e., the required level of education, length of experience, wage category, shifts, whether the job is suitable for women, young people, pensioners, the availability of accommodation, etc.). Every national committee provides help in finding new employment, but only the national committee responsible according to the permanent residence of the citizen is obligated either to find suitable employment or to include the citizen in the file of job applicants, and to provide security through unemployment compensation.

Conditions of Entitlement

Section 24

1. Unless otherwise stipulated, a citizen is granted an allowance if he simultaneously fulfills the following conditions:

a) he made a written request to the national committee to mediate employment and the national committee did not furnish suitable employment for him within 15 calendar days of receipt of this request;

b) during the three years prior to filing the request for employment mediation, he was employed for no less than 12 months in all, with the possible inclusion of the periods stated in paragraph 3;

c) he is unemployed at the time he requests employment mediation; if he is employed in a job that falls within the category considered to be occasional employment by health insurance,[16] this condition is considered to be fulfilled;

d) he was not receiving compensation during the six months prior to filing the request for employment mediation, unless the conditions listed in paragraph 2 apply.

2. The conditions stated in paragraph 1, d do not have to be fulfilled by a citizen:

a) who was laid off from his previous job as a result of organizational changes, or instantly terminated his working relationship according to Section 54 of the Labor Code;

b) for whom the national committee found a job for less than six months;

c) who received compensation in connection with retraining, if this was ensured by the national committee (Section 26, para. 3).

3. The following periods are included in the total length of employment according to paragraph 1, b:

a) a period when caring for a child below the age of three, personal care for a child who is seriously sick for a long time and who requires special care, unless it was placed in an institute for such children, and the time when personally caring for a close relative who was predominantly or totally helpless and was not placed in a social care institute or in an analogous health facility;

b) the period when the citizen was listed in the national committee's files as a job applicant, or received a disability pension or a widow's pension;

c) the period when the citizen was entitled to health insurance benefits to replace lost wages, according to the legal regulations on health insurance;

d) the period needed to prepare for a career, executed according to special regulations for a citizen with altered work ability, and the period for study (preparation) for a career, or needed by scientific or artistic research students;

e) the period of basic (substitute) military service and military training, or other forms of service in the armed forces that were performed in a service relationship;

f) a period of imprisonment or of serving a sentence involving deprivation of freedom.

To Section 24

If the national committee does not succeed in finding suitable employment for the citizen, it will enter him in the files of job applicants, and the citizen is entitled to unemployment compensation. However, he must fulfill the following conditions:

1. at the time when the citizen applies for employment at the national committee, he must be unemployed, i.e., he is neither in a work, membership, or other analogous relationship, nor is he performing work on the basis of work contracts performed outside the working relationship;

2. at the time the citizen applies for employment at the national committee, he must have either worked for at least 12 months (not necessarily consecutive) in a Czechoslovak organization during the last three years, or he is able to accumulate the same amount of compensation time; the performance of work on the basis of permits from the national committee (competent organ) and the performance of artistic activities by citizens pursuing independent careers is considered to be equal to employment in a Czechoslovak organization;

3. a citizen must apply for work at the national committee in writing. A written request for employment mediation is to be understood, for example, as signing a preprinted application for the employment mediation, or, if such a form does not exist, it is sufficient to present a declaration of one sentence to the effect that the citizen is unemployed and is applying to the Department of the Labor Force of the ONV [Okres National Committee] for mediation of employment, and the declaration must bear his signature.

4. the national committee has not succeeded in finding employment within fifteen days of the filing of the request for employment mediation, i.e., the citizen has not succeeded in entering a work (membership) relationship with an organization within 15 days from his first visit to the department of the work force of the ONV;

5. the citizen did not receive unemployment compensation during the six months prior to the request for employment mediation; this condition is included in order to avoid repeated requests for unemployment compensation by citizens who leave their jobs merely in order to receive security through unemployment compensation. Nevertheless, compensation may be paid if

the citizen received it in connection with retraining ensured by the national committee, or the citizen left employment because:

a) he was laid off for organizational reasons;

b) a reason to leave the working relationship instantly arose according to Section 54 of the Labor Code;

c) he concluded a working relationship that had a time limit and had been secured for him by the national committee.

Section 25

1. The compensation will not be granted to the citizen even if the conditions stated in Section 24 are fulfilled, if:

a) he fulfills the conditions for entitlement to an old-age pension or disability pension; this does not apply to a disabled citizen who fulfills the conditions of entitlement to disability pension but is able to perform regular work under special conditions;[17]

b) he refused suitable employment offered him by the national committee without due cause, or he refused to undergo retraining offered him by the national committee in the interest of his further useful employment; when assessing due cause, one must particularly consider the compulsory education of children, the employment of the other spouse, or necessary care for persons listed in Section 2, para. 3, a;

c) he repeatedly requested the national committee for employment mediation after terminating a working relationship within a time shorter than six months from the termination of the previously provided compensation, if the working relationship was terminated:

1. through an agreement, during the probation period, or because notice was given by the employee without due cause; in assessing these reasons, the regulation in 25 b applies;

2. through notice given by the organization according to Section 46, para. 1, e, and f of the Labor Code or immediate termination according to Section 53 of the Labor Code; in the cases listed in this subsection, the compensation may be granted under special circumstances.

To Section 25

An additional condition to paying unemployment compensation that must be fulfilled is that the citizen is not entitled to an old-age pension or disability pension according to the regulations on social security (i.e., he has attained the specified age and worked for the required number of years). This is verified by the Department of the Labor Force in cooperation with the ONV Department of Health and Social Affairs. However, this does not mean that the national committee's obligation to offer or mediate suitable employment for pensioners or disabled citizens ceases if the latter request employment. An exception is made for so-called people disabled from childhood, who admittedly fulfill the conditions for entitlement to disability pensions but, from the social point of view, it is desirable that they remain usefully employed (this includes blind citizens, citizens with orthopedic defects, etc.). If the national committee is unable to find suitable employment for them, it is obligated to provide unemployment compensation.

The payment of unemployment compensation will not be granted if the citizen refused to enter suitable employment, offered him by the national committee, or refused to undergo retraining offered him by the national committee, without due cause. Due cause for refusing employment or retraining is primarily to be interpreted as employment that would prevent proper care for members of the family, particularly those who have long-term illnesses, employment that involves a long commute to the workplace for single women and men looking after small children, etc. The assessment of due cause for refusing employment in individual cases is left to the national committee.

Unemployment compensation will also not be granted if the citizen repeats his request to the national committee for employment mediation within a period of less than six months from the provision of the last compensation, despite the fact that the national committee found him employment, if the reason for it is because the citizen is not seriously interested in employment and he terminates the working relationship without due cause of his own free will, or because the organization fired him due to serious violation of the work discipline, or immediately terminated the working relationship with him according to Section 53 of the Labor Code. This restricting provision for paying unemployment compensation is again included to avoid speculative actions by some citizens.

Section 26

1. If the conditions for granting compensation are fulfilled, the compensation will not be granted earlier than from the day when the citizen handed a written request for employment mediation to the national committee, unless otherwise stipulated.

2. A citizen, who hands a written request for employment mediation to the national committee no later than three working days after the termination of his previous employment, or after the obstacles that prevented him from so doing is removed, will be granted the compensation from the day following the termination of his employment.

3. The compensation will also be granted to a citizen if the national committee offers him the possibility to retrain after he has accepted suitable employment, and the citizen undergoes this retraining; in this case the conditions of entitlement stated in Sections 4 and 5 are not pertinent.

To Section 26

In principle, the entitlement to unemployment compensation starts no earlier than on the day when the citizen requested the national committee for employment mediation. As long as the citizen applied for new employment at the national committee without undue delay, i.e. within three working days after termination of his prior employment, he is entitled to the compensation from the day following the termination of that employment. This provides a financial incentive for the citizen, in his own interest, to try to find new employment immediately following the termination of the previous employment. If a citizen is unable to visit the national committee within three working days, for example, because of service in the Armed Forces, or due to sickness, etc., this is not considered to be undue delay. It is in the interests of the citizen to document such a situation to the national committee. If the citizen does not apply for employment at the national committee in time, one of the consequences for him is that he has no security for the period between the termination of his employment and the day when he first applies to the national committee.

The unemployment compensation is also provided to a citizen who undergoes retraining, even if he does not otherwise fulfill the conditions for granting the compensation. For example, this would include a woman working in the home, who does not fulfill the condition stipulating that she must have worked for at least 12 months during the previous three years.

Section 27

Compensation that has already been granted will be stopped if, after it has been granted, the citizen:

a) fulfills the conditions stated in Section 25, para. 1 a);

b) refuses suitable employment offered him by the national committee without due cause (Section 25, para. 1 b), or refuses to undergo retraining offered him by the national committee, or if he discontinues the retraining;

c) announces that he has no further interest in employment mediation;

d) does not cooperate with the national committee and thus frustrates the interaction necessary to mediate employment, particularly if, for no valid reason, he refuses to visit the national committee (Section 33, para. 2), and does not fulfill his obligations connected with employment mediation, or changes his place of residence for a longer period without informing the national committee;

e) refuses to temporarily participate in prime agricultural or other short-term work, not exceeding 60 working days within one calendar year, recommended to him by the national committee, unless his state of health prevents him from doing so; when recommending such aid consideration should be taken of the justified interests of the citizen, particularly if he is looking after a child before it had ended compulsory education, or is personally caring for an individual listed in Section 24, para. 3, a, particularly if the temporary aid is to take place outside the obvod of the community where the citizen has his permanent residence.

To Section 27

The national committee will stop payment of unemployment compensation if the citizen:

1. entered suitable employment secured for him by the national committee, or which he found himself, or if he announces that he has no further interest in employment mediation on the part of the national committee;

2. fulfilled the conditions for an old-age or disability pension, with the exception of disability pensions granted according to Section 29, para. 2, d of Law No. 100/1988 Sb. (so-called disability from childhood);

3. without due cause, refused to enter suitable employment or undergo retraining offered him by the national committee, or discontinued this retraining;

4. refused to cooperate in employment mediation, did not visit the national committee for the purpose of mediating employment, could not be reached because he was staying at a location unknown to the national committee;

5. refused to take part in aid to prime agricultural or other short-term work, for example, fulfilling tasks ensuing from the election programs of the National Front (the construction of preschools, kindergartens, cultural facilities, Z [munitions works] actions, ecological actions, etc.), though his state of health would allow him to do so. When recommending participation in such aid, the national committee must consider the justified interests of the citizen.

Provision of Compensation

Section 28

1. Unless stopped according to Section 27, compensation will be provided to the citizen, up to the day of commencement of employment or until the day of conclusion of retraining, if the latter is secured through the national committee, but for no longer than one year.

2. The compensation will not be provided during the time when:

a) the citizen is receiving health insurance benefits that replace lost wages (income);

b) the citizen is entitled to an orphan's pension;

c) the citizen is entitled to child or family allowances, or

d) the citizen is doing military (substitute) service, as long as he entered this service during the period compensation was being provided; the period when the compensation will be provided will be extended by an equal length of time.

3. A citizen will be provided with compensation even if he becomes unable to work after the grace period from previous employment has run out,[18] and he is not entitled to health benefits; the time during which compensation will be provided will be extended by the length of time the citizen was unable to work. If the citizen furnishes proof of an increase in expenses due to sickness or accident during the time he is unable to work, his compensation may be raised up to the amount of the health insurance that he would have been entitled to from his previous employment according to legal regulations on health insurance.

4. The compensation will not be provided to a citizen during imprisonment or any sentence involving the deprivation of his freedom, or for the time when, for personal or family reasons, he spends more than one month abroad. The time during which compensation will be provided will not be extended by a length of time equal to that involved in the above-mentioned circumstances.

To Section 28

In principle, unemployment compensation is only provided up to the day of commencing employment or to the conclusion of retraining if the latter was secured by the national committee, and for no longer than the period of one year.

Provision of compensation is interrupted for the period when the citizen:

1. receives health insurance benefits replacing lost wages;

2. is doing basic (substitute) military service;

3. stays abroad for longer than a period of one month;

4. is in prison or is serving a sentence involving deprivation of freedom.

In cases 1. and 2. the period of provision of compensation is extended by a period equal to the time when provision of compensation was interrupted.

Further, the compensation will not be provided if:

1. the citizen is entitled to an orphan's pension;

2. the citizen is entitled to child or family allowances.

If the citizen is unable to work during the time that he is provided with unemployment compensation, and at the same time the grace period from previous employment has run out, then he is not provided with health insurance benefits, but he does continue to receive unemployment compensation. The period of provision of unemployment compensation is extended by a period equal to the length of time he was unable to work.

The ONV Department of the Labor Force is allowed to increase unemployment compensation for the citizen up to the amount of the health insurance benefit to which the citizen would have been entitled, as long as there is good cause (in other words, not always) due to increased expenses connected with his inability to work—for instance for special diets in the case of hepatitis.

Section 29

1. Compensation is provided to the citizen:

a) for six months in an amount equal to 60 percent of the average monthly net income attained in his last employment, and in an amount equal to 90 percent of this average monthly net income, if he was laid off from his last employment due to organizational changes;

b) for a further six months in an amount equal to 60 percent of the average monthly net income stated under 29 a, but no more than Kcs2,400 per month.

2. When setting the amount of compensation according to paragraph 1, the average monthly net income of the citizen, determined and last used for purposes of the Labor Code purposes in his last employment, according to regulations of the Labor Code on utilizing average income is used. In the case of a citizen in whose last employment the regulations of the Labor Code on determining and using the average income were not enforced, the average monthly net income will be analogously determined according to these regulations for the purposes of the compensation.

3. If the compensation determined according to paragraph 1 is lower than Kcs1,000 per month, the citizen will be provided with compensation in this amount, as long as this amount is not higher than the average monthly net income of the citizen received in his last employment.

4. A citizen, who was not employed during the last three years, and his entitlement to compensation resulted from calculating the periods stated in Section 24, para. 3, will be provided with compensation in the amount of Kcs1,000 per month. Compensation in the same amount will be provided to a citizen who is unable to furnish proof of the amount of his average monthly net income from his last employment, up to such a time as he does furnish proof of it; this in no way affects the provisions of Section 34.

5. If the conditions for the provision of compensation are fulfilled only for part of the month, the citizen is entitled to one-thirtieth of the monthly compensation for every day for which these conditions have been fulfilled; in this case, the resulting amount is rounded upward to

the nearest whole. The compensation is paid retroactively in monthly installments.

To Section 29

When the unemployment compensation is being provided, a distinction is made, whether the compensation is to be paid to a citizen who was laid off due to organizational changes or to a citizen who left employment of his own volition. A citizen, who found himself without a job through no fault of his own because the organization where he used to work laid him off because of organizational changes, is given the benefit of a higher rate during the first six month that unemployment compensation is being provided. No distinction between the reasons for terminating the last employment is made during the subsequent six months of compensation. During these further six months that compensation is paid, the amount is set at a firm limit of Kcs2,400.

The basis for calculating compensation is the average monthly net income, which is calculated in such a way that the income tax, owed by the employee during the tax period when his working relationship was terminated, is deducted from the gross monthly income. Verification of the average monthly net income is supplied by the organization where the citizen was last employed.

If the calculated compensation is less than Kcs1,000, compensation in the amount of Kcs1,000 will be provided. However, if the citizen's average monthly net income is lower than Kcs1,000, he will receive compensation corresponding to a rate of 60 percent, that is 90 percent of his average monthly net income.

A citizen, who is unable to furnish proof of the amount of his average monthly net income from his last employment, will be provided with compensation in the amount of Kcs1,000.

If the time for which the citizen is entitled to compensation is not a full calendar month, he will be provided with compensation in an amount equal to one-thirtieth of the set compensation for every calendar day.

Section 30
Simultaneous Payment of Some Incomes

1. A citizen who, before terminating his last employment, received a pension for years served,[19] a special payment for service,[20] or a special compensation to miners[21] is entitled to compensation in an amount that does not exceed the sum of the average monthly net income, from which the compensation is being calculated, and the benefits paid before the termination of last employment when the compensation is added to the pension for years served, payment for service, or special payment for miners.

2. In the case of a citizen who participates in temporary aid in prime agricultural or other temporary work recommended to him by the national committee, the compensation will be decreased by the amount earned from such work.

To Section 30

If a citizen received a pension for years served, a special payment to miners, or a special payment for service, e.g., a former soldier, member of the SNB [National Security Corps] or SNV [Correctional Institution Corps], the unemployment compensation will be provided to him, but with the following restriction: The total sum of unemployment compensation and the pension for years served (special payment for service, special payment to miners) does not exceed the combined income of the citizen in his last employment and the pension for years served (special payment for service, special payment to miners).

Income received from prime agricultural or other temporary work, which the citizen performed on the basis of a recommendation by the national committee, will be deducted from the unemployment compensation, so that wages and compensation will not be paid simultaneously.

Section 31
Compensation for Citizens With Altered Work Ability

A citizen with altered work ability,[22] will be provided compensation according to this Decree, as long as he is not entitled to more advantageous security according to the legal regulations on social security.[23] If such a citizen received compensation according to this Decree, further security will be provided according to conditions stipulated in legal regulations on social security after the termination of the period of its provision (Section 28).

To Section 31

In addition to this Decree, conditions for the provision of unemployment compensation are regulated by the social security regulations (Section 119 of the FMPSV Decree No. 149/1988 Sb.). However, this regulation only applies to citizens with altered work ability. The regulations on social security regulate unemployment compensation in a broader context since they also regulate security of the spouse and children of the recipient of compensation. Therefore, in some cases, it may be more advantageous for a citizen with altered work ability to make use of the regulations on social security for granting compensation than of this Decree, even if, as a rule, the compensation rates are higher than those set by the regulations on social security. Citizens with altered work ability, according to the regulations on social security also have additional advantages due to the fact that the unemployment compensation paid according to the latter regulations is not limited to the period of one year, as is set in the provision of Section 28 of this Decree.

Section 32
Decisionmaking and Management of the Compensation

1. The agency that is designated by the comprehensively binding regulations of the Labor Code[24] decides the compensation and its provision according to this Decree.

2. The general legal regulations on administrative management[25] apply to the decisionmaking on the compensation according to this Decree.

To Section 32

The ONV Department of the Labor Force, in whose obvod the citizen, requesting employment mediation, has his permanent residence, decides the granting and provision of unemployment compensation. The regulations on administrative management apply to the decisionmaking on compensation. An appeal can be filed against a decision made by the Department of the Labor Force but it must be filed with that department within 15 days from the day the citizen was notified of the decision. The ONV Department of the Labor Force can decide on the appeal itself and whether it will comply with the appeal in its full extent or it can submit it to the relevant department of the Kraj National Committee, which will then decide on the unemployment compensation and its decision will be final and binding.

Section 33

1. The national committee, from which the citizen requests employment mediation, will instruct him on the conditions of entitlement to compensation and on the obligations he will have in connection with its granting and provision.

2. The citizen is obligated to furnish proof of all facts crucial to the granting of compensation, and to notify the national committee within five working days of any change that might decisively influence the provision of compensation. He is obligated to visit the national committee not less than once in every 14 days, so as to discuss any questions connected with the mediation of his employment, unless the national committee sets a different time due to the progress of the employment mediation.

To Section 33

When a citizen applies to the national committee for employment mediation, the national committee will instruct him on his rights and obligations, will discuss with him the manner of cooperation during employment mediation, and will discuss with him the times when the citizen should regularly visit the national committee. This is because there is a daily turnover of jobs in organizations and thus the job situation changes from day to day. Among the obligations the citizen must fulfill is the obligation to notify the national committee of any change that might decisively influence the granting of unemployment compensation, for example, the fact that the citizen has already found employment.

Section 34

1. If the compensation, through the fault of the citizen, was granted and provided though it should not have been, or was provided in a higher amount than was appropriate, particularly if the citizen concealed or incorrectly stated some crucial fact, or he did not fulfill his obligation according to Section 33, para. 2, he is obligated to return the unentitled compensation or the part provided in the incorrect amount. There is a three-year statute of limitations on returning compensation that was obtained without entitlement or in an incorrect amount. The decisionmaking agency for granting and providing compensation (Section 32) also makes the decisions on its overpayment.

2. If it is subsequently determined that the compensation was granted or paid at a lower rate than was appropriate, or that it was unjustly denied to the citizen or that it was granted from a later date than appropriate, the compensation will be granted to the citizen, it will be increased, or additional monies paid. There is a statute of limitations on the claim to payment of the compensation or any part of it set at three years from the day on which the compensation or a portion of it was granted.

To Section 34

If the ONV Department of the Labor Force ascertains that it made a decision on unemployment compensation on the basis of incorrectly supplied facts that were crucial for granting the compensation, it will then decide whether the unjustly provided compensation is to be returned. There is a three-year statute of limitations on this.

On the other hand, if the ONV Department of the Labor Force subsequently ascertains that it unjustly denied the compensation altogether or in the appropriate amount, it will increase the compensation, or grant it, and/or it will pay the difference in an amount equal to the amount that was unjustly denied. Here, too, there is a three-year statute of limitations.

PART FIVE

Joint, Temporary, and Closing Provisions

Section 35

When executing this Decree, the organizations and their superior agencies proceed in cooperation with the relevant union organs and organs of the Association of Cooperative Farmers.

To Section 35

Union agencies and agencies of the Associations of Cooperative Farmers will cooperate in enacting this Decree particularly in connection with the execution of organizational changes in organizations. The commentaries of the relevant provisions state where close cooperation between the unions is required.

Section 36

1. An employee who was entitled to a wage settlement according to previous regulations before 1 January 1990 will be provided with a wage settlement according to these previous regulations.

2. A citizen who received compensation up to 1 January 1990 according to previous regulations and who fulfills the conditions for provision of compensation according to this Decree will, as of 1 January 1990, receive compensation in the amount and according to the conditions stipulated by this Decree in such a way that the full period of its provision will not exceed one year; if the citizen does not fulfill the conditions in this Decree, he will continue to receive compensation according to previous regulations.

To Section 36

"Previous regulations," according to which a wage settlement is provided to an employee, entitled to its provision before 1 January 1990, are to be understood as:

1. FMPSV Decree No. 74/1970 Sb., through which layoffs, placement, and security of employees in connection with the execution of rationalizational and organizational measures, in version No. 4/1979 Sb. are regulated.

2. FMPSV Decree No. 82/1988 Sb., through which layoffs placement, and security of employees in connection with the restructuring of the national economy and central agencies are regulated.

The regulations stipulated in para. 1 and para. 2 also include "previous regulations," according to which the citizen was provided with unemployment compensation before 1 January 1990.

If the provision of a wage settlement started before 1 January 1990, the wage settlement will continue according to previous regulations and not according to this Decree. If the organizational change was started during the validity of previous regulations, for example in November 1989, and the three-month time limit for notification of reasons for layoffs started in December 1989 and the employee was laid off from the organization for organizational reasons on 30 April 1990, the amount of the wage settlement will be regulated by this Decree and not by previous regulations because the entitlement for wage settlement started after this Decree came into force.

On the other hand, if unemployment compensation started before 1 January 1990 according to previous regulations, and the conditions of the new Decree are fulfilled, it will continue to be provided according to this Decree.

Section 37
Annulment of Provisions

The following will be annulled:

1. The Federal Ministry of Labor and Social Affairs Decree No. 74/1970 Sb., according to which layoffs, placement, and security of employees in connection with the execution of rationalizational and organizational measures are regulated, in the version of Decree No. 128/1975 Sb., Decree No. 4/1979 Sb., and Decree No. 234/1988 Sb., with the exception of Section 6, para. 4, and Sections 7 and 17.

2. Articles III and IV of the Federal Ministry of Labor and Social Affairs Decree No. 234/1988 Sb., which amends and completes Decree No. 98/1985 Sb. on the regulation of wage resources.

3. The Federal Ministry of Labor and Social Affairs Decree No. 82/1988 Sb., regulating the layoffs, placement, and security of employees in connection with the restructuring the national economy and central organs.

To Section 37

Though Decree No. 74/1970 Sb. has been annulled, the provisions in Section 6, para. 4, regulating funerals of citizens who receive unemployment compensation remains in force, as do Section 7, regulating the National Committee's authority, and the provisions in Section 17 in regard to employees' claims on health insurance. The ONV is the appropriate national committee authorized to provide unemployment compensation, as well as funerals.

Section 38
Validity

This Decree comes into force on 1 January 1990.

Minister: P. Miller, signed by own hand

Footnotes

1. Section 8, para. 1 of the Labor Code.

2. Section 150 of the Labor Code.

3. Section 37, para. 1 b), and Section 153 of the Labor Code. Law No. 88/1968 Sb. on extending maternity leave, on maternity benefits, and on child allowances from health insurance, in the version of subsequent regulations (complete version No. 189/1988 Sb.).

4. Section 41, para. 7, and Section 46, para. 1 c) and para. 2 of Law No. 90/1988 Sb. on agricultural cooperatives.

5. Sections 249 to 251 of the Labor Code.

6. For instance, Section 6 of Law No. 94/1988 Sb. on residential, consumer, and production cooperative systems, Section 52 of Law No. 90/1988 Sb., Section 56 of Law No. 36/1964 Sb. on the organizations of courts and the election of judges, in the version of subsequent

regulations, Section 54 of Law No. 60/1965 Sb. on the body of public prosecutors in the version of subsequent regulations, Section 43 of Law CNR [Czech National Council] No. 118/1975 Sb. on the legal profession, Section 43 of Law SNR [Slovak National Council] No. 133.1975 Sb. on the legal profession, Section 59 of Law CNR No. 133/1985 Sb. on fire protection, Section 59 of Law SNR No. 126/1985 Sb. on fire protection.

7. Law No. 76/1959 Sb. on some service relations of soldiers, in the version of subsequent regulations, complete version No. 122/1978 Sb.; Law No. 100/1970 Sb. on the service relationship of members of the National Security Corps, in the version of Law No. 63/1983 Sb.

8. For example, the CSR Government statute No. 1/1988 Sb. on the sale of goods and provision of other services by citizens on the basis of permits from the National Committee and the SSR Government statute No. 2/1988 Sb. on the sale of goods and provision of other services by citizens on the basis of permits from the National Committee.

9. Section 11 of the Labor Code.

10. Section 36 of the Labor Code.

11. Section 26a of the Economy Code No. 109/1964 Sb. (complete version No. 80/1989 Sb.).

12. For example, Section 48 of the Economy Code and Section 14 of Law No. 88/1988 Sb., on state enterprises.

13. The decree by the Federal Ministry of Labor and Social Affairs [FMPSV] No. 235/1988 Sb. on the determination and utilization of average earnings.

14. Section 121, para. 1 b) of the Labor Code.

15. Section 2, para. 1 of Law No. 70/1958 Sb. on the tasks of enterprises and national committees in the section on care for the work force; Section 4 of the government statute No. 92/1958 Sb.

16. Section 6 of Law No. 54/1956 Sb. on the health insurance of employees, in the version of subsequent regulations.

17. Section 29, para. 2 d) of Law No. 100/1988 Sb. on social security.

18. Section 42 of Law No. 54/1956 Sb.

19. Section 40 of Law No. 100/1988 Sb.

20. Section 33 of Law No. 76/1959 Sb. in the version of subsequent regulations (complete version No. 122/1978 Sb.); Section 110 of Law No. 100/1970 Sb.

21. Law No. 98/1987 Sb. on special payments to miners, in the version of Law No. 192/1989 Sb.

22. Section 80 of Law No. 100/1988 Sb.; Section 113 of Decree No. 149/1988 Sb. through which the law on social security is executed.

23. Section 83 of Law No. 100/1988 Sb.; Sections 119 to 121 of Decree No. 149/1988 Sb.

24. Section 7 of the Decree of the Federal Ministry of Labor and Social Affairs No. 74/1970 Sb. through which the layoffs, placement, and security of employees in connection with the implementation of rationalization and organizational measures is regulated.

25. Law No. 71/1967 Sb on administrative management (administrative regulation).

Amendment to Law on Special Payment to Miners Explained

90CH0121B Prague PRACE A MZDA in Czech Feb-Mar 90 pp 65-76

[Article by Dr. Vit Samek, federal minister of labor and social affairs: "The Amendment to the Law on a Special Payment to Miners"]

[Text] On 13 December 1989 the Federal Assembly of the CSSR passed a law which amends and completes Law No. 98/1987 Sb. [Collection of CSSR Laws] on special payments to miners. The new law was approved in connection with preparations to implement compensation programs in mining and the uranium industry. As a result, a number of miners, such as employees in uranium ore-processing plants, will transfer to other jobs in mining, in the uranium industry, or they will find work in other branches of the national economy. This article explains the changes connected with the introduction of a special payment to miners for these employees, so that the execution of the new legal provisions by the organizations which these workers will be leaving will correspond with the objectives of the legislators and so that the miners, union functionaries, and other workers will receive sufficient information on the legal conditions of the newly granted social benefits.

As of 1 January 1988, the legal provision for providing a special payment to miners is included in Law No. 98/1987 Sb. on the special payments to miners. According to the original legal provision, laid-off workers or employees who are transferred to different work for health reasons are entitled to this special payment, as a special social benefit provided from the resources of mining organizations outside the framework of Czechoslovak social security benefits. These health reasons were described as follows: reaching the highest permissible exposure set by the binding assessment of the appropriate health and hygiene service agency for work performed in specific underground, deep-mine workplaces; or as the determination of the threat of occupational diseases (these diseases are defined in the regulations on social security). This regulation applied only to workers who, up to the day of their layoff or transfer to other work for health reasons, were employed in a category I job in mining with their permanent workplace underground in deep mines (compare Section 14, para. 2, a) of the Social Security Law—other than that, it applies only to jobs in category 1.AA).

The new legal provision changes the concept of Law No. 98/1987 Sb., and adds to the "special health payment" the possibility of granting a special payment to miners for a limited time when specific workers in mining enterprises and uranium processing plants are forced to transfer to other jobs due to the implementation of compensation programs authorized by the appropriate government entity. They recognize the special character of mining work and that it is substantially more difficult for miners and workers in uranium processing plants to adapt to other work, compared to employees in other professions in the national economy and that these facts demand the adoption of special social provisions beyond the framework of provisions generally granted when implementing structural changes in the national economy, for instance when implementing rationalization changes. Above all, it recognizes the fact that layoffs from work underground in deep mines are accompanied by the loss of a number of special benefits provided in this country exclusively to miners in appreciation of their demanding work for society and are paid from the enterprises' resources. The loss of the above-mentioned benefits has a negative effect on the standard of living of the worker and his family, as well as on the social status of the worker. By leaving the mining enterprise, the miner loses his extra vacation, recuperation trips, special diet, payments in kind, loyalty bonuses for miners, as well as other benefits.

The granting of a special payment to miners and workers receiving compensation, also takes into consideration the fact that, even before the highest permissible exposure has been reached, the negative elements of the work environment underground in deep mines leads to a decrease in physical strength and to such wear and tear on the body, that it is impossible for the worker to perform his work at a comparable level in his new workplace. The result is a loss of the original one-sided qualification and a sharp decline in income due to the wage preferences in mining work, etc. The law expresses a broader purpose in providing a special payment in Section 1, according to which mining organizations will provide mining workers a special payment as a social benefit intended to mitigate the material and social consequences connected with a change of job or with a layoff in order to perform a public function, as long as the conditions mentioned below are fulfilled.

Changes in Conditions of Entitlement

According to the amended version of Section 2 Law No. 98/1987 Sb. a worker is entitled to the special payment to miners (hereinafter "special payment") if:

1. After reaching the highest permissible exposure underground in deep mines, or if there is a threat of occupational disease from his previous category I.AA work:

a) he was transferred to other work bearing less risk underground in the deep mines,

b) he was transferred to other work underground in the deep mines, or

c) he terminated his working relationship with the organization in which he had been performing category I.AA work.

2. After reaching the highest permissible exposure or ascertaining the threat of occupational disease, he was laid off from category I.AA work in order to perform a public function.

3. He was employed for at least 15 years in category I.AA work, reached the age of at least 50 years while performing it, and ceased to perform it.

4. In connection with the execution of a compensation program authorized by the appropriate government entity:

a) he transferred from category I.AA work, in which he had been employed for more than three years altogether, to not work underground in the deep mines,

b) he transferred from other category I deep-mine work (compare Section 14, para. 2 b) of Social Security Law No. 100/1988 Sb.), in which he had been employed for at least five years, to work that does not entitle him to a special payment,

c) he transferred from category I work in the preparation and final processing of uranium ore (compare Section 14, para. 2 h) of the Social Security Law), in which he had been employed for at least five years, to work that does not entitle him to a special payment.

The conditions mentioned above in sections 1 through 3 express the concept of the special payment according to the laws in force up to last year. In the interests of simplification, we will use the term "special health payment" in the further explanation of the entitlement to the special payment that arises when these conditions are met. The conditions of entitlement to a special payment given in No. 4 express a newly introduced entitlement to a special social benefit for workers who transferred to other employment (to another job) in connection with the implementation of compensation programs—in the further explanation we will use the term "special compensation payment."

The change in the concept of the law on special payments to miners consists in the fact that a new legal reason (title) for the entitlement to this social benefit is introduced and that the scope of the law is broadened to include other groups of workers performing category I work in mining and the uranium industry (previously the law only applied to workers employed in category I.AA work). The joint statement about the conditions of entitlement to a special health payment and to a special compensation payment, basically through a single legal process, demonstrates the fact that it is only one benefit—a special payment to miners. However, in contrast to the present situation, simultaneous entitlement to this benefit can arise (for more details see the explanation of the problems of Section 8, para. 2 of the Law).

The basic condition of entitlement to the special compensation payment is that the miner (worker in uranium processing) transfers from work mentioned in point 4 to other work in connection with the implementation of a compensation program authorized by the CSSR, the CSR, or the SSR Government (mining organizations and uranium industry organizations fall under the authority of the Federal Ministry of Fuels and Energy, the Federal Ministries of Metallurgy, Engineering, and Electrical Engineering, the CSR and the SSR Ministries of Construction and Civil Engineering, the Czech Geological Office and the Slovak Geological Office—i.e, it falls under the authority of both the Federal and National Republics). A compensation program imposed on the enterprise by the initiator (the above-mentioned central agencies) is to be understood according to Section 15, Law No. 88/1988 Sb. on state enterprises, the group of economic, technical, organizational, cadre, and other provisions that aim to cut back the production or other economic activities in the specific enterprise in the specified branch or field. Considering the explicit wording of Section 2, para. 4 of the law on the special payment, which requires that the compensation program be authorized by the government (i.e., it is referring to examples given in Section 14, para. 3 of the Law on state enterprises where the compensation program is imposed by the initiator on the basis of a program of structural changes in the national economy—the expansion or compensation of branches or fields—authorized by the appropriate government), it is apparent that entitlement to the special payment will not arise for workers if the compensation program is imposed on the enterprise by an initiator without authorization by the government, even if all other conditions of entitlement are met. Likewise, there will be no entitlement to a special compensation payment if other rationalization measures are implemented in the enterprise, even if, under these circumstances, the workers are entitled to other benefits according to the labor law, especially the wage settlement.

For the purpose of providing these benefits, jobs included in category I work, which provide entitlement to a special compensation payment are assessed according to the conditions and to the extent of standard regulations on social security—compare, in particular, Sections 8, 14, 15, para. 2, and Section 16 of the Social Security Law and the CSSR Government statute No. 117/1988 Sb, on placing workers in categories I and II work for the purpose of pension benefits. Therefore the introduction of the special compensation payment will not cause inordinate additional administrative problems for organizations granting it, since the organizations already keep records, e.g., on the periods of employment that must be included for pension benefits.

One of the conditions of entitlement to the special compensation payment from category I.AA work demanded by the law, is that the work was performed for more than three years altogether (in other words, exactly three years are not enough, the minimum must be at least three years and one day); this is in order to exclude workers who left mining after completing a three-year commitment, and who are entitled to other recruitment benefits. In other cases, the period of five years in the preferred job is set as the minimum period for entitlement to a special compensation payment. From the stated scope of the special compensation payment to miners, it is apparent that not all the employees in the enterprise, where the compensations will be implemented, will be entitled to this benefit; for example, workers who have been placed in category II and III work for the purposes of pension benefits, will not be entitled to it. Likewise, workers who perform the required preferred work up to the day they are laid off, but who have not worked for the required length of time, or workers who have worked for the required length of time before the day of implementation of the compensation program (their transfer to other work or to another job), but were not performing the required preferred work up to the day of their layoff will not be entitled to it.

It is necessary to explain the difference in the terms used by the law regarding special health payment and special compensation payment. In the case of the special health payment, the law uses the wording "the worker was transferred to another job," while in the case of a special compensation payment it uses the wording "a worker transferred to another job." The reason for this is that, when implementing a compensation program, the organization is unable to proceed according to Section 37 of the Labor Code if the worker remains in the enterprise in a different job; this is not a one-sided act by the organization, since the worker transfers to the new job on the basis of a contract specifying a change in the agreed working conditions according to Section 36, para. 1 of the Labor Code. The legal term used: "transfer to other work" also covers cases in which there is a change in the existing working relationship, as well as cases where employment is terminated (usually by firing according to Section 46, para. 1, a to c of the Labor Code, resp. through an agreement according to Section 43 of the Labor Code).

There are also some changes in the description of so-called negative conditions of entitlement to the special payment to miners. According to the amended Section 3 of Law No. 98/1987 Sb., there is no entitlement to the special payment if:

a) the worker is receiving an old-age or disability pension, and, in the case of a special health payment, if the worker is receiving a higher or an equivalent partial disability pension,

b) the organization is paying the worker a wage settlement according to the relevant regulations of the labor law on security and further useful employment of laid-off workers (compare the Federal Ministry of Labor and Social Affairs Decree No. 102/1987 Sb. and No. 195/1989 Sb.), or additional monies up to the average income according to Section 115, para. 7 of the Labor Code;

however, a worker is entitled to the special payment, in addition to the wage settlement or the additional monies up to the average income, if he receives it before the day he becomes entitled to a wage settlement or a settlement of average income,

c) the worker is unemployed for more than two months; this period does not include the time when the worker received health insurance or when he was listed in the national committee's files as a job applicant; employment is considered to be any work activity that establishes participation in pension benefits,

d) the worker,

1. in the case of a special health payment, again performs high-risk category I.AA work, the conditions of which are stated above in 1 and 2,

2. is employed in a category I.AA job, if there is entitlement to a special compensation payment from such a job,

3. is employed in any job that entitles him to a special payment (for more details see above), the conditions of which are stated above under No. 3, in the case of a special health payment; or that entitles him to a special compensation payment for category I jobs, other than category I.AA (see above),

e) the worker has reached the age of 60.

In this case the law retains the previous stipulations but adds necessary regulations connected with the introduction of the special compensation payment and further regulations expanding social security for miners who are transferred for health reasons. It introduces the new provisions that permit the granting or preservation of entitlement to a special health payment for a worker who is receiving a partial disability pension, or who will be granted such a pension, as long as the amount of the partial disability pension is not equal to the amount of the special payment. The latter will then be paid in an amount equal to the difference between the two social benefits. The possible payment of a partial disability pension will not influence entitlement to a special compensation payment due to the different character of the benefits (see below for the amount of this payment).

The process of laying off deep-mine and uranium industry workers in connection with the implementation of compensation programs will be executed according to the relevant prevailing regulations of the labor law, and the laid-off workers will have a right to the relevant entitlements according to the labor law, particularly to a wage settlement. Considering the fact that the transferred worker's income does not decrease during this time (the wage settlement eliminates such a decrease), the entitlement to the special payment will not start until after termination of the payment of the wage settlement, as is the case with special health payments. However, this is conditional on the worker being employed. Since it is to be expected that serious problems will arise in finding new jobs for the workers when compensation programs are being implemented, the regulation on a two-month grace period, during which the worker need not be employed, was included, so that the time when the worker is listed as a job applicant at the appropriate national committee will not be added to the period when he receives health insurance benefits.

The reason for providing the special payment will be eliminated if the worker, after transferring from the preferred employment, starts to perform such work again. That is why the regulation does not acknowledge entitlement to a special payment under such circumstances, and if the worker is already a recipient of the payment, his entitlement expires from the day he starts performing "forbidden work" (i.e., from the day a working relationship starts, or from the day there is a change in the working relationship). When listing prohibited work in regard to entitlement to a special compensation payment, the law gives preference to workers leaving category I.AA jobs that provide entitlement to the special payment; the law demands the performance of work in jobs other than preferred ones for other groups of workers.

There will be no entitlement to a special compensating payment, as is the case with the special health payment, for a worker who receives a pension replacing his full labor wages (i.e., old-age and disability pensions, or even of an individual pension of it replaces the other two), nor for a citizen over 60 years of age, who generally cannot be expected to perform preferred jobs that would provide entitlement to a special payment.

The Amount of the Special Payment, Duration of Its Provision

The introduction of a special compensation payment, that has a definite time limit, made it necessary to make a number of changes in the implementation of the regulation on the amount of the special payment; in the case of the special health payment, the previous legislation remains in force. The new formulation of Section 5 now includes all the regulations dealing with the amount of individual claims, and this led to the adoption of the regulation contained earlier in Section 3, para. 1 b) of the law and in the CSSR Government statute No. 1/1989 Sb. on the increase in the special payment to miners, whose monthly installments of the special payment, as of 1 January 1989, were increased from Kcs1,000 to Kcs1,500, and from Kcs1,500 to Kcs1,900 per month, in accord with the increase in the Czechoslovak pension benefits in 1988.

The special compensation payment will also be paid in installments of Kcs1,500 and Kcs1,900 per month like the special health payment but only for a certain period, the length of which will be determined on an individual basis, depending on the total duration of the preferred work. Thus a worker, who is entitled to a special compensation payment due to category I.AA work (Section

2, para. 4 a) of the law—see above), will be provided with the social benefit in the amount of Kcs1,900 per month for:

a) three months, if he was employed in a category I.AA job for less than five years altogether,

b) six months, if he was employed in a category I.AA job for a total of five years; this period of provision of a special compensation payment will be extended by three months for every additional year worked in a job that provides entitlement to a special payment, but for no more than 30 months (thus the longest time possible for provision of a special compensation payment in this case is 36 months).

The worker must complete the basic period, i.e., more than three years and less than five years, or else five years in category I.AA work. When the extension of the provisional period of the special compensation payment is being calculated, other periods when the worker was performing category I work, entitling him to the special payment, are also included.

Example: Due to the implementation of a compensation program authorized by the CSSR Government, a miner transferred to another job from a category I.AA job, in which he worked for a total of four years. Before this, he had completed a total of eight years in other category I work, preparing and processing uranium ore. This period cannot be added to determine the basic period for provision of the special payment, nor for extending the time, so the special compensation payment will be paid him in the amount of Kcs1,900 per month only for three months (in other words he receives Kcs5,700). If, however, he had been employed in category I.AA work for a total of five years, the basic period for provision of this payment would be six months, and the period would be extended by 24 months for the eight years of working in the uranium industry. Thus the special compensation payment would be paid in installments of Kcs1,900 for 30 months, and the worker would receive Kcs57,000 in all.

A worker who is entitled to the special payment due to category I.AA work (Section 2, para. 4, a of the law), and who was an ore extractor, breaker, drifter, or sinker up to the day when he was transferred to other work, will receive the special compensation payment in the amount of Kcs1,900 per month for:

a) five months, if he was employed in category I.AA work for a total of less than five years,

b) sixteen months, if he was employed for a total of five years in category I.AA work; this period of provision of a special compensation payment will be extended by three months for every additional year worked in a job that provides entitlement to a special payment, but for no more than 30 months.

For the purposes of the law, an ore extractor, a breaker, a drifter, and a sinker are to be understood as workers in the mining profession, who work in the actual underground extraction of minerals, work as breakers on the face, crosscut, cut drifts, sink shafts or drive tunnels, or sink and raise the vertical sections of mines. For the purposes of this more favorable stipulation of the period during which the special compensation payment will be provided, it is irrelevant for how long the miner was an ore extractor, breaker, drifter, or sinker; what is important is that he was employed in one of these jobs up to the day he transferred to another job because of the implementation of a compensation program authorized by the CSSR Government. In this case, too, only the years spent employed in category I.AA work are relevant to the basic period of provision of the special payment, and periods of employment in other category I jobs, which provide entitlement to the special compensation payment, are included in calculating the extension of the payment period.

Example: A sinker is laid off during the implementation of a compensation program authorized by the CSSR Government, after 11 years working in a category I.AA job, and seven years in a category I job in the preparation and processing of uranium ore. The basic period of provision of the special compensation payment is 16 months, and will be extended by the maximum period of 30 months, considering the fact that he attained more than an additional 10 years of working in a job that provides entitlement to the special payment. Therefore, he will receive the special compensation payment in the amount of Kcs1,900 per month for 46 months, and the worker will receive a total amount of Kcs87,400. If the worker were not a sinker up to the day of transfer to another job, under the same circumstances, he would receive the special compensation payment for 36 months, in the amount of Kcs1,900, and would receive a total amount of Kcs68,400.

A worker who is entitled to the special compensation payment on the basis of other category I mining work underground in deep mines, or on the basis of category I work in the preparation and final processing of uranium ore, will receive this social benefit in the amount of Kcs1,500 per month for three months, as long as the worker was employed for a total of five years in a job that entitles him to the special payment. The period of provision of the special compensation payment is also extended by three months for every year of employment in a job that provides entitlement to the special payment, but for no more than 30 months. In this case, all periods of work providing entitlement to the special payment, both for entitlement to the special compensation payment and for the basic time of its provision and the extension of it, are included.

Example: The worker was employed in category I.AA work for 15 years. In connection with a compensation program authorized by the CSSR Government he was employed for one year in so-called other category I jobs in mining, that were performed underground in the deep mines. After transferring to another job, he will receive the special compensation payment in the amount of

Kcs1,500 per month for 33 months, and will thus receive a total payment of Kcs49,500; if he were laid off from a category I.AA job, he would receive the special payment in the amount of Kcs1,900 per month for 36 months or, for example, if he were a crosscutter on the day he was laid off, he would receive it for 46 months—he would thus receive a total of Kcs68,400, and respectively Kcs87,400 from the special compensation payment.

If there is entitlement to the special compensation payment in addition to a partial disability pension (entitlement to the special compensation payment always remains, but entitlement to a special health payment exists only as long as it is higher than the partial disability pension), it will be provided in the following amounts:

a) the difference between the two social benefits, in the case of a special health payment,

b) one-half, in the case of a special compensation payment.

Example: The worker receives a partial disability pension in the amount of Kcs1,450. He will be entitled to a special health payment in the amount of Kcs1,900. But considering that the partial disability pension is paid, he only receives an amount of Kcs450 per month from the special payment. If he were also entitled to a special compensation payment in the amount of Kcs1,900 per month, the worker would receive the latter special payment in the amount of Kcs950 per month in addition to his partial disability pension.

If the worker fulfills the conditions for a special payment, and for its settlement, only for a part of one month, or if the amount of the special payment changes during the course of a month, the relevant amounts of the special payment that he would be entitled to according to the above-mentioned explanation will be proportionately adjusted. To avoid misunderstandings, the law stipulates that the daily amount of the special payment is one-thirtieth of the appropriate monthly amount, and the resulting amount of the benefit (not the daily amount) is rounded off upward to the nearest whole Kcs.

The CSSR Government retains the authority, which it enforced last year, that empowers the government to raise the monthly amount of the special payment by statute, on the basis of changes in wage level or in the amount of pension benefits provided by social security.

Simultaneous Entitlement to Special Payments

This is a new problem in the law on special payments (compare Section 8, para. 2), since according to previous legislature, a worker was only entitled to a single special payment, even if there were three ways in which this entitlement could arise—for more details see the conditions of entitlement to a special health payment. This principle continues to be valid and the amended law also permits only one entitlement to the special health payment. But the situation in regard to the special compensation payment is different. If a recipient of a special health or compensation payment were denied a special compensation payment in connection with further compensations, which others performing the same work receive, this would constitute undue hardship.

According to Section 8, para. 2 of the law, if there is simultaneous entitlement to a special health payment and a special compensation payment (this will be the most frequent case), the special health payment will continue to be paid in the original amount (i.e., in the amount at the time a simultaneous entitlement arose), and the special compensation payment will be paid in an amount equal to one-half of the entitled independent benefit.

Example: A worker receives a special health payment in the amount of Kcs1,900 per month, and during the course of the implementation of a compensation program, the worker becomes entitled to a special compensation payment of Kcs1,500 per month. He will continue to receive the special health payment in the amount of Kcs1,900 per month, and the special compensation payment in an amount equal to one half, i.e., in the amount of Kcs750. Thus, for the time of provision of the special payment, the worker will receive a total amount of Kcs2,650 per month from the special payment.

If there is simultaneous entitlement to more than one special compensation payment, only the first special compensation payment to which the worker became entitled will be paid. The period of provision of the second (simultaneous) special payment will be shortened by the period during which the entitlements run simultaneously (in other words, the payment of the additional special compensation payment is not merely postponed, the amount during the period of simultaneous entitlement to two special payment is "forfeited").

Example: The worker receives a special compensation payment in the amount of Kcs1,900 per month, and will be provided with it for 43 months. During the course of an additional governmentally authorized compensation program in the new organization where he is employed, he fulfills the conditions of entitlement to an additional special payment in the amount of Kcs1,500 per month, which should be paid to him for 33 months. The first of the two special compensation payments, which had already been paid for 30 months at the time of entitlement to the additional special payment, will continue to be paid to the worker in the amount of Kcs1,900 for a further 13 months. The second special compensation payment will not be paid to him during this time, and the period of provision (33 months) will be shortened by this time. When the first special compensation payment ceases to be provided, the worker will receive the second special payment in the amount of Kcs1,500 per month for 20 months.

The same principles are valid for more complex simultaneous entitlements to special payment, and also if a partial disability pension is being provided simultaneously.

Example: The recipient of a special health payment fulfills the conditions of entitlement for two special compensation payments during two consecutive compensation programs, as given in the previous example. The special health payment will continue to be paid in the previous amount, the first special compensation payment will be paid in an amount equal to one half, i.e., Kcs950 per month for the entire period (43 months), and the second special compensation payment will be paid for a period of 20 months after the provision of the first special compensation payment has ceased, likewise in an amount equal to one-half, i.e., in an amount of Kcs750 per month. If, during the simultaneous entitlement to the special health payment and the first special compensation payment, the worker was granted a partial disability pension in the amount of Kcs1,900 per month, and was paid this amount, the entitlement to the special health payment, according to Section 3 of the law, would expire, and the special compensation payment would, from that moment to the end of the period of provision, be paid in the amount of Kcs1,900. After this, the worker would receive the second special compensation payment for a period of 20 months in the full amount of Kcs1,500 per month.

Assertion of Entitlement, Disbursement of the Special Payment

The legal provisions on assertion of entitlement to a special payment are only regulated by the Amendment to the extent made necessary by the introduction of the special compensation payment. The worker asserts his entitlement to this special payment through a written request to the organization where he performed the job entitling him to the special payment, before the change of employment according to Section 2 of the law (for more details see the explanation of the conditions of entitlement to a special payment). The organization is obligated to deal with this request, and within two months of receiving it, to personally deliver to the applicant a written notification whether he has been granted the special payment or not; before assessing the request, the organization is obligated to obtain all the necessary documentation, particularly documents about the type of work performed, the reasons for transfer to another job, to other employment, etc. The organization's notification must also include information on the date when special payment was granted, the amount, the reasons it was granted, and the date of settlement, and in the case of a special compensation payment, the length of time it will be provided. If the organization notifies the worker that the special payment has not been granted, it must state why the worker is not entitled to it. In all cases the organization's notification must include information on the applicant's right to recourse in the courts.

If entitlement to the special payment expires, and if entitlement to its settlement expires, or if there is entitlement to the special payment in a different amount, the organization is obligated to personally deliver to the applicant notification of the reasons why, and date from which, the worker is not entitled to the special payment, it is not going to be settled, or he is entitled to it in a different amount, and this must be dome within two months of the day the organization determined this fact. This notification by the mining organization or uranium industry organization must also include information on the applicant's right to recourse in the courts. The above-mentioned regulation is also valid in regard to a special compensation payment, in which context it can prove to be very practical, due to the limited time of provision of this benefit.

The special payment is paid by the mining organization or uranium industry organization in which the entitled worker was employed in a job entitling him to the special payment, before a change in, or termination of, his job according to Section 2 of the law; it will be paid retroactively on a monthly basis. If this organization is dissolved (which is frequently the case in compensation programs), the obligations stipulated by the law, particularly the obligations to deal with the request for granting the special payment, and the provision of it under the set conditions and in the set amount, are transferred according to Section 9 to its legal representative. If the said organization does not have a legal representative, these obligations are transferred to another organization, named by the central agency (the Federal Ministry of Fuels and Energy for uranium industry organizations, etc.).

The special compensation payment will not be paid to the entitled person while he is abroad. After he returns home, the unpaid installments of the special payment will be settled, but only for a maximum period of one year from the day the entitled worker notifies the relevant organization of his return from abroad. Thus, if a worker entitled to a special compensation payment goes abroad, the period of provision of the benefit will not be shortened; the regulation merely ensures that the relevant organization will not be faced with complex administrative problems, or, in the case of short stays abroad, the problems of payment of the special payment abroad.

Entitlement to the special compensation payment cannot be forfeited. However, similarly to the special health payment, entitlement to individual installments of this benefit can be forfeited after one year from the day of settlement. If entitlement to a special compensation payment was asserted after one year, the worker is entitled to the individual installments of the special payment for a maximum period of one year prior to the date on which he delivered the request to the competent organization. The period of forfeiture is not in force between the day the request was delivered to the competent organization and the day the worker is notified of the granting or denial of the special compensation payment but this period must not exceed two months. There

is a three-year limitation on the organization's right to demand the return of individual installments of the special compensation payment that were provided without proper entitlement or in the wrong amount, as is the case with the special health payment; this statute of limitations starts on the day the organization determines that the payment was provided without entitlement or in the wrong amount, but the time is not to exceed 10 years from the date it was settled.

A special compensation payment is not transferable. If the worker entitled to it dies before the period of provision of the special payment has elapsed, his wife, or his children, or his parents, in this order, become entitled to the amount due after his death, as long as they were living in the same household as the worker at the time of his death. The condition that they must live in the same household does not apply to children who become entitled to an orphan's pension. In the absence of the above-mentioned persons, the above-mentioned portion of the special payment become a matter of inheritance. The special compensation payment is not subject to taxes.

The provisions about the obligations of the recipient of the special payment and of the organization paying this benefit were defined more closely in regard to the introduction of the special compensation payment. According to Section 13 of the law, the recipient of the special payment is obligated to notify the organization paying him the benefit of any changes that may affect the continuation of entitlement to the special payment, and its amount (Sections 3, 5, and 8, paras. 2 and 3 of the law) within eight days. If the recipient of the special payment does not fulfill this obligation, or consciously does something that causes the special payment to be paid without entitlement, or in an incorrect amount, he is obligated to return the special payment, or a portion of it, from the date on which he lost his entitlement to it altogether, or was entitled to it in a lower amount; if he asserts his right to an additional special payment, he is obligated to inform the organization, where he is asserting his right, of the fact that he is receiving a special payment from another organization.

The organization is obligated to keep records of facts that decisively influence entitlement to the special payment, i.e., the duration and type of work, the exposure reached, transfer to other work, termination of employment, and laying off in order to perform a public function, and , on the request of the worker, or. another organization, to issue a confirmation of these facts.

Disputes on entitlement in regard to Law No. 98/1987 Sb., in other words, including disputes about the special compensation payment, are decided by courts of first and second instance according to the procedures of Civil Law. However, the entitled person can only put forward the motion if the competent organization refused him the benefit, or if the entitled worker disagrees with the organization on the date the entitlement originated, its amount and the length of time it will be provided, its settlement, change or expiration, or if the organization does not notify him of the granting or denial of entitlement within two months from the date the request for a special payment was delivered. Authorized employees of the Federal Ministry of Labor and Social Affairs and of the Republic Ministries of Health and Social Affairs may intervene in the management of mining organizations and uranium industry organizations and, in cooperation with the authorized employees of the appropriate central agency and appropriate union agency, authorize the fulfillment of obligations prescribed by this law.

Concluding Provisions, Temporary Cases

An important provision of the labor law regarding the special compensation payment was included in the concluding provision of the law on special payments to miners. According to the new Section 17 a) of the law, the special compensation payment is not taken into account in matters to do with compensation for injury due to an accident on the job, or for occupational diseases. In the case of a special health payment, the regulations for this problem are included in Section 13 of the Federal Ministry of Labor and Social Affairs' Regulation No. 102/1987 Sb. on useful employment and security for workers in mining who are permanently unable to perform their previous work.

Entitlement to the special compensation payment exists if the conditions for its granting were fulfilled after 31 December 1989. However, when assessing a worker's entitlement to this benefit, periods of employment providing entitlement to the special payment, which were performed before 1 January 1990 are included from the date on which they commenced; these periods are naturally included to determine the length of time the special compensation payment will be provided. As was stated earlier, individual preferred jobs are assessed according to the conditions stipulated in the regulations on pension benefits when determining provision of the special payment to miners.

If the worker was not entitled to a special payment before 1 January 1990, or if, during that time, his entitlement expired merely because he received a partial disability pension, the special payment to workers in connection with the change in Section 3 a) of the law will be valid as of 1 January 1990, but no earlier, as long as the other conditions for entitlement are met to the extent and under the conditions stipulated in the valid version of law No. 98/1987 Sb. on the special payment to miners by that date. Thus the law makes consistent implementation of the change in regard to the entitlement to a special health payment simultaneously with a partial disability pension possible (for more details see above in the explanation of the conditions for entitlement to a special payment); this is valid both in the case of workers who fulfilled the conditions of entitlement to a special payment according to the new regulation before this amendment came into force, and those who fulfill the

conditions after 31 December 1989. However, installments of the special payment cannot be paid retroactively for the period prior to 1 January 1990.

Changes to Law on Noncommercial Exports, Imports

90CH0122A Prague SBIRKA ZAKONU in Czech Issue 12, 5 Mar 90 pp 245-248

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[Text]

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Provisions of the Federal Agencies and the Republics

Resolution of the Government of the Slovak Socialist Republic of 14 February 1990, No. 73, on granting amnesty for offenses that fall under the jurisdiction of the agencies of the Slovak Socialist Republic.

52.

Decree of the Federal Ministry of Foreign Trade dated 1 March 1990 which amends and completes Decree No. 41/1985 Sb., on noncommercial exports and imports, in versions No. 179/1988 Sb., No. 118/1989 Sb, and No. 4/1990 Sb.

According to Section 54 of Law No. 42/1986 Sb., on economic relations with foreign countries in version of Law No. 102/1988 Sb., The Federal Ministry of Foreign Trade stipulates the following:

Article I

The Decree of the Federal Ministry of Foreign Trade on noncommercial exports and imports No. 41/1985 Sb. in versions of Decrees No. 179/1988 Sb., No. 118/1989 Sb., and No. 4/1990 Sb. is amended and completed as follows:

1. The text of Section 1, para. 4, d is deleted.

2. In Section 7, para. 2, a, subsection 2, the text "or as long as the latter purchased this on his trip to the Czechoslovak Socialist Republic in Czechoslovak shops, and attained the means for the purchase of these articles through the exchange of easily convertible currency at a foreign exchange bureau, and will be taking them out of the country again during the same trip" is deleted.

3. The text of Section 1, para. 2, subsection 1.cc is deleted.

4. In place of Section 17, a new Section 17a is inserted, which reads: "Section 17a

"If the customs office permits the export of an article listed in Appendix No. 1 [Section 1, para. 1, c and Section 1 Para. 2, subsection 1.bb], it will, on principle, impose a duty, set by the administration, in the highest amount according to the regulations on administratively set duties.[1]"

5. The Appendix to No. 1 reads:

"Sections that require permits [Section 1, para. 1 c, and Section 1, para. 2, subsection 1.bb of the Decree]:

1.	Fuels, exported in reserve tanks
2.	Knitted outer clothing for adults
3.	Artificial silk linings
4.	Feathers and down products
5.	Tents
6.	Rubberized textile deck chairs and inflatable boats
7.	Sports articles of all kinds, including fishing tackle
8.	Color television receivers
9.	Radio receivers and their accessories
10.	Tape recorders and record players
11.	Electric one-door refrigerators
12.	Electric heating appliances, electric appliances for heating water
13.	Small electric rotary or thermal appliances (e.g., coffee-makers food osterizers, food mixers, thermos flasks, etc.)
14.	Lamps, including chandeliers
15.	Stoves and cookers that use solid fuels
16.	Enameled bathtubs, boilers, steam cookers, and vats
17.	Aluminumware
18.	Automatic washing machines
19.	Vacuum cleaners
20.	Wood barrels
21.	Paints and thinners
22.	Fever thermometers
23.	Beekeeping equipment
24.	Cider and hard cider gauges
25.	Locks and padlocks
26.	Glass soda and cream bottles
27.	Knitting machines
28.	Musical instruments
29.	Alcoholic beverages."

6. Appendix to No. 2 reads:

"Articles that are banned for export (Section 7, para. 1 of the Decree):

1.	Foodstuffs and food products of all kinds
2.	Personal hygiene and toiletry articles
3.	Bed linens of all kinds

4.	Leather gloves and small miscellaneous articles of real leather
5.	Baby and children's clothing of all kinds
6.	Knitted underwear and underwear sewn from cloth
7.	Real leather garments and real fur products
8.	Footwear of all kinds
9.	Knitting yarns
10.	Stocking goods, including pantyhose
11.	Babies diapers
12.	Gold and silver products
13.	Tires, cycle tires, tube tires, and tubes
14.	Automobiles, motorcycles, mopeds, and spare parts
15.	Bicycles and spare parts
16.	Sewing machines and spare parts
17.	Plumbing, electrical, and gas fittings
18.	Enamelware
19.	Bathroom fixtures (toilets, washbasins, bidets, etc.)
20.	Plumbing fixtures and replacement parts
21.	Freezers and refrigerator-freezers (with two doors)
22.	Electric ranges
23.	Sectional and panel radiators
24.	Typewriters
25.	Electric and gasoline lawn mowers
26.	Utility china and fireproof glass
27.	Personal computers and attachments
28.	Videotape recorders
29.	Equicolor and Fomacolor negative films
30.	Roofing materials
31.	Finished lumber and construction lumber
32.	Sewer and drainage pipes
33.	Ceramic wall and floor tiles
34.	Windows and doors
35.	Cement and lime
36.	Asphalt insulation tapes
37.	Metallurgical materials
38.	Meat grinders and fruit presses
39.	Washing detergents
40.	Firearms (including air guns for sport), shotguns for hunting, special attachments, and ammunition*
41.	Gas appliances
42.	Craftsmen's and agricultural tools and implements, including electric ones
43.	Antiques
44.	Products imported from nonsocialist countries and from SFRJ [Federal Social Republic of Yugoslavia]."

7. In Appendix 4, the previous item No. 2 is deleted and replaced with item No. 2 that reads:

"2. Articles that incite war and force, fascism and nazism, racial discrimination, and things that offend humanity."

Article II

This Decree comes into force on the day it is made public.

Minister: signed for Cuker

Provisions of the Federal and Republic Agencies Resolution of the Government of the Slovak Socialist Republic dated 14 February 1990, No. 73 on granting amnesty for offenses that fall under the jurisdiction of the agencies of the Slovak Socialist Republic

On the basis of Section 1 of the Slovak National Council No. 36/1990 Zb. [Collection of CSSR Laws], the government grants amnesty for offenses that fall under the jurisdiction of the agencies of the Slovak Socialist Republic:

Article I

It grants pardon for sentences that have so far not been executed, or ones that were extended through legislative decisions for offenses committed before 1 February 1990.

Article II

It decrees that no proceedings should be started in re offenses committed before 1 February 1990 or, if they have been started, they should be discontinued.

Article III

The minister of the interior and environment, the minister of justice, the minister of finance, prices, and wages, the minister of trade and tourism, the Kraj National Committee Councils, and the Council of the National Committee of the Slovak capital, Bratislava, are charged with guaranteeing the implementation of this Resolution not later than 31 March 1990.

Signed: Cic

Warning: This section has priority.

Footnotes

1. The Decree of the Federal Ministry of Finance, the CSR Ministry of Finances, Prices, and Wages, and the SSR Ministry of Finances, Prices, and Wages No. 231/1988 Sb., on duty set by the administration in Decree No. 39/1990 Sb.

* Law No. 147/1983 Sb. on weapons and ammunition.

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